

CALVINISM AND MILITARY JUSTICE IN AMERICAN LITERATURE

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## Introduction

This study focuses on key texts in American literature that deal with the topic of military justice. Herman Melville's novella, Billy Budd, Sailor, Herman Wouk's novel, The Caine Mutiny and Aaron Sorkin's play, A Few Good Men, highlight aspects of military justice in times of war and/or political strife that are antithetical to democratic process. Strategies for conflict resolution, I argue, employ an epistemology of Essentialism and accentuate the manner in which the judicial decision making process is bypassed as judgment is pre-determined for the purposes of conjuring this false sense of cultural homogeneity. I explore the manner in which Essentialism in American military judicial procedure in times of war and/ or political strife is depicted through allusion to Calvinistic principles premised on the theological doctrine of John Calvin and his progenitors, as metaphor. Why use Calvinism and Calvinistic allusion as a metaphor for "essentialist" judicial process? Calvinism encompasses a series of theological principles stemming from Calvin's doctrine of Predestination. These theological principles promote this notion of a fixed universe that conjures a sense of moral/cultural homogeneity polarized in opposition to a binary other. It is a doctrine that divides society into the saved and the damned and distinguishes people into two homogenous groups based upon this binary division. All other assumptions concerning the nature of knowledge in this theology apply broad based classifications that are premised upon Predestination. Additionally, Calvin's theories place a premium upon intuitive knowledge and proffer a fixed universe, indicative in revelation as symbolism used for practical purposes in the secular world. From within this context, I explore a dynamic in these key texts which reveals a process in which intuitive knowledge, made evident as revelation, is the primary currency whereby individual acts are not judged according to evidence but treated as self-contained judgments. Through allusions to Calvinistic type revelations of "a priori" truths, "essentialist" strategies of knowledge management are depicted as metaphors for "divine and moral" necessity premised on Calvin's doctrine of Predestination. Initially, I

consider a dynamic through which “essentialist” process is represented in Calvinistic notions of revelation in signs and symbols in which immediate, momentary acts are considered as judgments. The study evolves to analyze “essentialist” strategies that seek to categorize based upon more long term, all encompassing states of being that delve further into Calvin’s doctrine of Predestination as metaphor and later theological doctrines that expanded his premises to further qualify permanent, “a priori” states of moral character and being. Further on, I explore a judicial process that recognizes “Essentialist” strategies premised upon faith based influences within institutional operations of the military as containing viable legal currency. Through all three of these judicial processes, legal fictions are created that obfuscate the due process under discursive review that a democracy requires. Consequently, legal process, in being antithetical to democracy, exhibits the characteristics of farcical show in a patronage to inevitable and immutable, “a priori” states – represented in allusions to Calvin’s doctrine of Predestination and its ideological progeny, as metaphor. The purpose of this judicial design is perhaps to conjure this sense of cultural homogeneity by imputing a feigned symbiotic relationship between judicial and moral inevitability.

#### The Origins of Essentialism and Its Definition in Terms of this Paper

Greek playwright, scientist and philosopher, Aristotle, conceived of the concept of Essentialism in its most basic form in his proposal that all things and people possess self-contained essences that might be observed in physical characteristics identified across large populations and in repeated evidence of exhibited behavioral patterns. John Locke, whose theories of government premised the founding epistemology of the new American democracy, was “anti-essentialist” as he held the view that people arrive at classifications not objectively, but through an intensely arbitrary and subjective process that incorporates personal views, individual tastes and interpretations of experience (Locke in Hughes-Conn 25). Additionally, Locke rejected Essentialism as a way of ordering and classifying the empirical

world primarily because he believed that properties that constitute an “essential” definition of a person or object within one system may not satisfy the qualification in another equally valid system (25). Karl Popper, in his essay “Conjectures and Refutations,” dismisses the notion that society forms valid definitions through intuitive knowledge and innate reasoning ability (Popper in Shearmur 124). Correspondingly, he attacks Aristotle’s notion of self-contained essences as fallacious and controverts the idea that scientific and social nuances can be explained through broad based classifications (124). In his primarily scientific and sociological analysis of Aristotle’s theories of classification and the evolution of classification into modern science, Popper coined the term “Essentialism”(124). My intention is to explore the ways in which this basic premise initiated by Aristotle is illuminated as a social variable in allusions to Calvinistic concepts of revelation of immutable states of Predestination evident in outward signification, the epistemology of imaginative power and the institutional incorporation of those ideas.

In the Oxford English Dictionary Online Reference, the term “essentialism” is defined as a psychological phenomenon – a “theory that people implicitly assume that things and people have essences that make them what they are, even when these essences are unknown, and that we classify things according to this assumption” (Oxford English Dictionary 1).

For the purposes of this paper, in my use of the term “essentialist,” I refer to the modern epistemological theory of Essentialism. This theory postulates that certain human behaviors are intrinsically self-contained, unchanging and immutable. It is the belief that certain characteristics that might be attributed to a person, as self-contained phenomenon, hold ubiquitous application based upon race, ethnicity, religion, class, social position, culture or place of origin. These traits are identified on a superficial level as any limited, unsubstantiated knowledge is applied within a broad context to classification. Consequently, while these traits are identified on a superficial level, they hold the power of revelation as self-contained judgments. The self-contained “essences” are the judgments of a

foregone, immutable and conclusive reality. In turn, judgment is wielded through the creation of a metaphorical metonymy – one specific aspect of information will satisfy a broad classification that meshes multitudes of information into one representative “essence.” This theory points to a fixed state of reality that remains unaffected by empirical conditions or circumstances and relies upon intuitive knowledge in which supposition serves in proxy for fact. In relation to military justice in these key texts of American Literature, I test the ways in which Essentialism and “essentialist” strategies in military justice work to obfuscate due process under discursive review and forge a sense of cultural homogeneity in binary distinctions that contradicts the pluralistic spirit of American democracy. I examine the manner in which these ideas spawn the use of legal fictions that nullify true legal meaning and conjure this sense of inevitability in reality that sustains the illusion of a unity of thought. This feigned unity of thought, in turn, serves to neutralize dissension, absorb ambiguity into a larger generalization, and secure power structures.

Calvinism argues for a unity of thought within a fixed universe that extends to all aspects of life. Abraham Kuyper, a leading Calvinist theologian of the nineteenth century, explained the relevance of Calvinism this way:

[Calvinism] is rooted in a form of religion which was peculiarly its own and from this specific religious consciousness there was developed first a peculiar theology, then a special church-order, and then a given form for political and social life, for the interpretation of the moral world-order, for the relation between nature and grace, between Christianity and the world, between church and state, and finally for art and science. (Kuyper qtd. in Cochran 37)

### Background – The Origins of Calvinism

Calvinism has been recognized from within numerous theoretical and historical contexts but primarily has been based upon the theological treatise of John Calvin, a disenchanted Roman Catholic, who became one of the leaders of the Protestant Reformation in Europe. Originally named Johann Cauvin (his family name was changed to the Latin “Calvin” as was the trend at the time) he was born in Picardy, France on July 10<sup>th</sup> 1509. (Calvin never met Martin Luther, a Catholic priest who launched the Protestant Reformation with his posting of the 95 Theses on the walls of a church in Lyons, France.) Calvin was initially a student of Roman Catholic divinity who never actually became an ordained Catholic priest. He served as a minister and theologian who expanded the context of the Protestant Reformation and his ideas ultimately took a distinct and differing theological direction from that of Martin Luther. Much of John Calvin’s ideological notions were extrapolations and refinements of certain concepts borrowed from Saint Augustine in his Confessions. Calvin’s treatise, as an expansion and modification of Confessions, entitled The Institutes of the Christian Religion, proposes radical notions regarding the human condition, free will and the concepts of salvation and eternal life. Included in his doctrine is a strong nullification of the sovereignty of the Pope as the leader of the Roman Catholic Church and a rejection of the decree of Apostolic Succession.

Originally, the inspiration for Calvin’s Institutes of the Christian Religion was created by a conversion experience Calvin underwent in 1533. He believed that God wanted him to leave the Roman Catholic Church and point Christianity in a new direction (Palim 6). His treatise was published in 1536 and dedicated to King Francis I of France as a formal as well as personal plea for a new theological foundation and a new social direction for the nation. Calvin held hopes that King Francis I would have a change of heart and endorse this new vision. It is reported that King Francis I never actually read the

document. Nevertheless, due to Calvin's political activism and vocal appeals for religious change in France, King Francis I forced him into exile.

### The Origins of The Ideology

In his theological writing Confessions, Saint Augustine proposes the following tenets: after Adam's fall into sin in the Garden of Eden, man lost the will to reject sin, man became completely dependent on God's mercy, God's mercy is given in the form of divine grace and only a few will become recipients of this divine grace (Augustine in Westbrook 3). Saint Augustine further expounds upon this belief to propose that God works outside of human time from a pre-conceived plan and "allows nothing to remain unordered... and knows all things before they come to pass" (Augustine qtd. in Westbrook 3).

### John Calvin's Version

Originally a student and proponent of Humanism, Calvin left the project to develop his theories of Predestination, "divine necessity" and the notion that man is devoid of free will due to the fallacy of original sin and therefore subject to a fixed existence and a fixed role in life. His most important theological and ontological theory is one that proposes an inexorability of divine law that fixes man's state in the universe. He stipulates that God "determined with himself what he willed to become of each man. For all who are not created in equal condition; rather eternal life is ordained for some, eternal damnation for others" (Calvin qtd. in Westbrook 4).

For the purposes of this paper, I focus on allusion to Calvinist principles coined as Cotton Mather's "Outward tokens and manifestations" of inward grace, John Calvin's Predestination and "divine (moral) necessity," Jonathan Edwards' "the dominance of the strongest motive" and "chain of cause and effect" and Timothy Dwight's notion of "supernatural rationalism" as metaphors for "Essentialist" processes in American military justice as revealed through key texts in American literature.



### Why Calvinism Could Be A Metaphor For Essentialism

In Book 1, Chapter 5 of The Institutes of The Christian Religion – “The Knowledge of God Conspicuous In the Creation and Continual Government of the World,” John Calvin explains what he deems as a world of divine revelation in which the cause and effect dynamic is devoid of human agency. Every aspect of the human condition is an occasion for divine revelation. Empirical circumstances are merely for the purpose of revealing divine will and life as a state of foregone conclusion. The visible world of the senses is always the forum for divine revelation and is not to be altered but recognized as God speaking, revered and submitted to (Calvin 2). Every human action and every phenomenon in nature is thus deemed to be treated as revelatory of divine wisdom and a state of necessity that is not negotiable (3). Within this context, there are good and bad people and good and bad acts. However, choice and decision making are deemed inconsequential as those who choose the good and “willingly devote [themselves] to the service of God” have already been blessed with divine love that gives them the inclination to obey God and do his bidding (5). Evidence of the genuineness of these people will be conveyed to others through physical signs, behaviors and other “glorious manifestations” in the form of worldly displays that instigate the “contemplation” of God (9). (This decree later became what Cotton Mather defined as “outward tokens and manifestations” of inward grace.) Furthermore, every occasion of human experience within the physical world functions as the platform through which God has decided to reveal his will (9). The whole dynamic is rooted in sensory perception: “We can trace them with the eye, or point to them with the finger” (12). Within the same context, those who perform bad acts are deemed to be in an essential state that obfuscates the possibility for reform or modification in any manner as God as placed these people within particular circumstances that will provide the forum for the expression of their depravity – a depravity that is inalterable and not amenable through human will.

### “Divine Necessity” – “Moral Necessity”

Calvin’s decree of “divine necessity” stems from his initial premise that the world is fixed and human behaviors are dictated by a divine, “a priori” plan set in motion for the purpose of bringing moral states of grace or depravity to fruition in a binary and inequitable way that eliminates the free will to choose. In Book 3, Chapter 21 of the Institutes of the Christian Religion – “Of the Eternal Election By Which God Has Predestined Some to Salvation And Others To Destruction,” Calvin discusses his theory of Predestination. He states, “The covenant of life is not preached equally to all” and man has no choice but to accept this state (1). God has decided from the beginning of time who will be saved and who will be damned. Those who will be saved are given God’s arbitrary gift of grace which is assigned and not earned (2). Calvin emphasizes, “God saves whom he wills of his mere good pleasure and does not pay a debt, a debt which never can be due”(3). Those who are chosen or elected to salvation, Calvin argues, are deemed so by “free mercy, without any respect to human worth” (13). Simultaneously, those “whom he deems to destruction are excluded from access to life by a just and blameless, but at the same time incomprehensible judgment” (13). In turn, this decree, according to Calvin, is sealed from discursive scrutiny as inquiry into the will of God is forbidden: “for it is not the right that man should with impunity pry into things which the Lord has pleased to conceal within himself” (4). Man is obliged to accept the “secrets of his will” and even accept his own condemnation as an indisputable, essential state. Knowledge of any aspect of the human condition is a privileged phenomenon that is only dispersed arbitrarily (6). Furthermore, the concept of Predestination works in conjunction with God’s ability of prescience in which he is able to see every human action simultaneously outside of empirical time. “This prescience extends to the whole circuit of the world and to all creatures”(7). Thus, in human terms this decree is exacting into posterity and for all future generations within the parameters of human time. The doctrine proposes a sense of timelessness within a unity of thought constructed around the inevitability of Predestination.

### Calvinism in America

The first Calvinists to arrive in the New World did not come from England. In fact they came from Geneva, Switzerland under the leadership of Gaspard de Coligny. They were actually French Huguenots fleeing religious persecution in France. The expedition led by Nicholas Durand de Villegagnon settled in Rio de Janeiro, Brazil. They conducted the first Protestant church service in the New World on May 10, 1557. Then suddenly, Villegagnon renounced his Protestant conversion and sent the other followers back to France with the charge of heresy. Those who were not eventually executed or left to rot in a French prison, drowned, starved to death in Rio de Janeiro or fell victim to native attacks. The other significant Calvinist settlements in the New World were the Plymouth Colony and the Massachusetts Bay Colony that became established in 1607 and 1628 respectively. Those inhabitants were all English citizens fleeing from persecution in their native country. The Massachusetts Bay Colony was established as a retreat from the oppressive policies of King Charles I of England and a parliamentary radical by the name of William Laud. The new communities were very closely bonded and based their society on “devout obedience to the Scriptures,” “principles of mutual edification” and a policy of fraternity in which each person became intimately involved in the business of and moral censure of the other (McNeill 336). The early American leaders were ministers John Cotton, Thomas Hooker, John Davenport, Jonathan Winthrop, Jonathan Edwards and later Cotton’s grandson, Cotton Mather and Jonathan Edwards’ grandson, Timothy Dwight.

Cotton Mather, in Magnalia Christi Americana, focuses on the physical world of the senses as proofs of pre-determined states and divine will. He argues that God’s pre-destined plan is disclosed in “outward tokens and manifestations” of grace evident in those chosen for salvation. The righteous and saved individual’s special status is revealed through significations in the physical senses to include speech and demeanor. In turn, the damned person is also revealed in his state of damnation through

significations in the physical senses. Physical signs, in his view, are open manifestations of self-contained, pre-destined judgments of God. In Chapter 1 on Billy Budd, Sailor, I consider how his ideas are alluded to in order to expose “essentialist” strategies in military justice.

Jonathan Edwards propounded certain Calvinistic beliefs that are particularly used in allusion as metaphors for “Essentialist” thinking in relation to the insanity notion and how it is implemented in military justice in The Caine Mutiny. His theories are alluded to as ways in which actions constitute a profile and are treated as self-contained consequences of immutable, “a priori” states of the human condition. He believed that the human will is controlled by physical and moral traits assigned by God at the beginning of time. The control of the will by these intrinsic and inalterable traits is complete and irreversible (Edwards in Owen-Aldridge 82). This is the reasoning that fashions his version of “divine (moral) necessity.” His argument for “divine necessity” is based upon three concepts: “dominance of the strongest motive,” “the chain of cause and effect” and “the distinction between natural and moral necessity” (82). Every individual action, he asserts, is governed by the individual’s strongest inclination - “dominance of the strongest motive” - and every individual act is part of a larger interconnectivity within divine will that controls every other occurrence within the universe and is “the chain of cause and effect” (83). The distinction between moral necessity and natural necessity is ambiguous. There are laws of nature put in place by God – empirical patterns and environmental conditions that man cannot alter. This is what is considered to be “natural necessity.” Human behaviors fall into the category of “moral necessity” which stems from another set of pre-determined patterns that work in symbiosis with nature. In the concept of “moral necessity,” all good or evil actions are governed not through free choice but through intrinsic inclinations that guide all actions on an unconscious level (85). Because these aspects are believed to have been decided by God, they are considered to be of “moral necessity.”

Timothy Dwight expanded upon Calvin's proposal that certain people are placed within favorable circumstances as part of "divine necessity" (Dwight in Berk 87). Dwight advocated for a God who is more indirect than the God of John Calvin. In Dwight's theological rationalization, God, from the beginning of time, puts social plans and circumstances in place that will forward His ends and bring about happiness for the selected few (87). Dwight's version of Calvinism is very political. In Dwight's theological premise, God has a political mission and is actively involved in the daily machinations of the empirical world. Dwight, an ardent participant in the American Revolution, did not unequivocally believe in democracy. He favored an oligarchy of a few selected Christians. He did not trust the concept of what he interpreted as mob rule. In his rationalization of Christian government, people are obliged to obey moral rulers but they are also justified in rebelling against immoral ones (107). Therefore, the government and its leaders must adhere to a moral quotient that is based upon Christian belief systems. Above all, Dwight preached that loving God means loving only those within the "paternalistic family and community arrangements" (107). Not every person is worthy of Christian love in his view. His preference for oligarchy also suggests a need for the sort of governmental control that is "essentialist" in nature. A few individuals would manage information and participate in "essentialist" classification and conflict management that might not be possible from within the discursive scrutiny of a representative or direct democracy. In Chapter 3 on A Few Good Men, I discuss the allusions to Timothy Dwight's theocratic institutionalism and the concept of "supernatural rationalism."

"Legal Fiction" – a term that will link three texts – How it is qualified

Jeremy Bentham, an eighteenth century English lawyer, author and philosopher, first recognized the existence of "legal fictions" within legal systems and their processes. In his anthology of legal essays

entitled An Introduction to the Principles of Morals and Legislation, he critiques aspects of the law that incorporate mythologies that are unfounded in any legal sense and yet perform a sustaining function within the legal system itself:

In English law, fiction is a syphilis, which runs in every vein and carries into every part of the system, the principles of rottenness. Fiction of us to justice? Exactly as swindling to trade. The most pernicious and basest sort of lying. It affords presumptive and conclusive evidence of moral turpitude in those by whom it was invented and first employed. (Bentham in Fuller 2)

Sir Henry Maine, in Ancient Law (1861), defines a legal fiction as “any assumption which conceals, or affects to conceal the fact that a rule of law has undergone alteration, its letter remaining unchanged, its operation being modified”(Maine 24). Lawrence Friedman, in The Legal System: A Social Perspective, defines legal fictions as a rhetorical phenomenon that strives to “form a bridge between ideology and fact” (250). As such, these legal inventions are manifestations of a specific set of political and social circumstances: “a form of legal reasoning in the strict sense; therefore they are found in systems and subsystems which limit or deny innovation” and they tend to “flourish above all in closed systems where the need to stretch, pretend and conceal change is at the highest”( 251).

### Chapter One – Herman Melville’s Billy Budd, Sailor

In Chapter One, I investigate the wartime judicial process in Herman Melville’s novella Billy Budd, Sailor and the dilemma of a mutiny charge and the suspicion of conspiracy in the middle of wartime and in the wake of recent mutinies on board other British ships. I analyze the manner in which a commanding officer in the British Navy draws a conclusion based upon his gut feeling that ultimately creates a pre-determined judicial process. I explore his approach to judicial process as “essentialist” in nature from the moment he experiences an “intuitional surmise” – a revelation from which he arrives at a fixed determination based upon unqualified, cursory information. I explain how the strategy premised

upon intuitive knowledge is “essentialist” in nature and how Melville uses allusions to this Calvinistic belief in the value of revelation in superficial physical signs in order to portray how Captain Vere creates a self-fulfilling prophecy and a legal fiction that leads to the execution of an innocent man. I examine the manner in which Melville alludes to revelation in “outward tokens and manifestations” as a metaphor for “essentialist” thinking that considers acts as self-contained judgments of pre-destined, inevitable states. The primary “essential” act is the swing of the fist. The swing of the fist becomes the judgment, not merely the act. I look at the manner in which Captain Vere asks the drumhead court to employ signification in the role of metaphorical metonymy for a multitude of unknowns and to deliberately bypass discursive scrutiny. Melville depicts this legal strategy through Captain Vere’s faith-based invocations that point to divine revelation and the immutable decree of “divine (moral) necessity” in the swing of the fist in order to metaphorically represent an act that holds a self-contained judgment. I scrutinize the manner in which “essentialist” strategies are employed in order to secure military power structures and maintain order in times of ambiguity and dissension.

Much scholarship discusses Melville’s artistic approach in regard to the legal and moral ramifications surrounding a rumored mutinous plot, an accidental death and the execution of an innocent man. Richard Weisberg, in The Failure of the Word: The Protagonist in Modern Fiction, contends that the situation on board *The Bellipotent* is indicative of a complete manipulation of the spirit and letter of the law. He argues that Captain Vere acts with malice in setting events into action premised upon a staged judgment and an allegiance to an unknown set of military circumstances that are not grounded in the law. Nancy Ruttenburg, in “Melville’s Handsome Sailor: The Anxiety of Innocence,” speaks of a contradictory state of affairs in which justice does not follow the presumed path, and the legal process creates a “paradox of murderous innocence,” thereby illuminating a system in which the law operates in mysterious and unexpected ways. Furthermore, she observes a legal situation in which the absence of malice is irrelevant to culpability. Marlene Longenecker, in “Captain

Vere and The Form of Truth,” contends that the dilemma of Billy Budd is less about mystery and more about order and process. Her argument recognizes the existence of fixed “human social order” and the aspects of judicial procedure on board *The Bellipotent* that exemplify its captain’s allegiance to this social order (Longenecker 338). Cory Goodwyn, in “How to Read Republican: An Analysis of Herman Melville’s Billy Budd, Sailor,” theorizes that the legal process and Captain Vere’s words condemning Billy Budd from the start, represent Melville’s recognition that authority figures are obliged to follow an unwritten social code of propriety. I feel that this unwritten social code of propriety Goodwyn refers to is indicative of a presumed cultural homogeneity forged through the promotion of a social and moral understanding of an intuitive nature. Knowledge of social propriety is intuitive because it does not necessarily hold ubiquitous meaning for members of society. This intuitive knowledge that guides the philosophical vision for the newly formed United States, Goodwyn speculates, functions as the cornerstone of Republican government (6). My paper introduces a theory that goes beyond this allusion to social order evident in subtle nuance. Through a study of “Essentialist” process in the text that I argue, is framed within Calvinist allusion, I attempt to unravel the particular epistemology of this social order while examining its distinct variables.

I also discuss specific scholarship regarding the nature of military law in the United States, British maritime law during the historical period and scholarship that debates the validity of Captain Vere’s application of military law. I delve into Herman Melville’s Calvinistic background and his own opinions on related topics as depicted in his other works. I examine the real life story of the *USS Somers* mutiny – a case on which Melville based his fictional story. In this chapter, I consider Calvinistic allusion as metaphor in its most pure form. I also study the creation of legal fictions that link the three texts: during the trial of Billy Budd, a legal fiction is promoted that necessitates an execution and later functions as the official explanation for the legal action of a military commander.



## Chapter Two – Herman Wouk's The Caine Mutiny

In chapter 2, I discuss an “essentialist” treatment of the insanity notion in American military justice in times of war and/or political strife in Herman Wouk’s novel The Caine Mutiny and a treatment of the insanity notion that bears an epistemological resemblance to early American Puritan Calvinism, the theological doctrine of Calvinist Jonathan Edwards and the concept of “the dominance of the strongest motive.” I connect Calvinist definitions of insanity to legal insanity definitions within the United States and discuss the origins of the insanity defense as traced to a fifteenth century Calvinist minister. I consider the insanity notion as it is employed within a legal venue as an excuse for behaviors deemed to be irregular to military protocol. Distinct from the legal insanity defense itself, the insanity notion is used as an “essence” – a particular aspect of a self-contained state - in order to actualize a state of legal inevitability and neutralize dissension and ambiguity within a military scenario. I move beyond a consideration of metaphor in its most pure form and explore Calvinistic allusion as a suggestion of an incipient epistemological state in American culture. Evidence of this insipient epistemological state is manifested in the treatment of the insanity notion, as alluded to as a metaphor for pre-destined, inevitable states that are reconciled within the parameters of military justice.

The Caine Mutiny deals with a Captain’s removal from command that is viewed as a mutiny. Throughout the narrative, the insanity notion, as a legal strategy, is depicted as a classification that is unqualified from the onset, based upon cursory, incomplete information and yet functions as a metaphorical metonymy for a multitude of unknown variances and discrepancies. In the trial that follows, the insanity notion is promoted as an immutable, inalterable state that becomes the tool for the creation of a legal fiction that obfuscates discursive scrutiny and becomes a patronage to a fixed reality.

Frank Ardolino, in “Herman Wouk’s The Caine Mutiny,” presumes a military scenario through which a provocateur, Thomas Keefer, manipulates evidence of inherent cowardice and general social

dislike in order to lend credibility to the insanity notion that will warrant a removal of command. The article ponders the inner meaning behind the subtle biblical allusion in the nickname “Old Yellowstain” and the moral questions governing social relationships that become behavioral markers (Ardolino 40). Edward S. Shapiro, in “The Jew As Patriot: Herman Wouk and American Jewish Identity,” asserts that The Caine Mutiny is actually a narrative loaded with content that addresses the existence of a hegemonic social order and offers an alternative in the Jewish defense attorney, Barney Greenwald (3). Ironically, Barney Greenwald, as the symbol of the pluralistic counterbalance to hegemony, uses the standard “essentialist” thinking in order to gain his acquittal. My paper attempts to sift out specific meaning regarding what constitutes this dominant cultural epistemology and how it works in military justice to affirm “essential” states. I also investigate real world examples of military justice in which the legal strategies and guidelines for the use of the insanity defense are reflective of Calvinistic interpretations of insanity.

### Chapter Three – A Few Good Men by Aaron Sorkin

In this chapter, I look at the manner in which Calvinistic allusion as metaphor for Essentialism in military judicial procedure transforms from a focus on immutable states of self-contained insanity into a form of institutional policy that is theological in nature and insinuates a cultural homogeneity. In Aaron Sorkin’s play A Few Good Men, immutable states of “essentialist” institutional policy are depicted through the “code red” – an unwritten procedural policy within a Marine unit stationed on Guantanamo Bay, Cuba during the 1980’s. I look at the manner in which this “code red” is manipulated as institutional policy serves as a metaphorical metonymy for multiple ambiguities. In turn, a legal fiction is forged in “the code red” that gains an acquittal of a murder charge for soldiers simply following a direct order that is unwritten and disconnected from any legal military guidelines. I explore the manner in which this institutional policy in the unwritten “code red,” in conjunction with the

theological invocations in this unit's military indoctrination, allude to Calvinist Timothy Dwight's concept of "supernatural rationalism" and his belief that God is active in democratic government and particularly in the newly formed American nation – a nation holding special divine sanction as a primary agent of some grand teleological plan. I also connect the scenario in A Few Good Men to real world events that suggest the strong influence of the Christian religion and Dwight's "supernatural rationalism" within the United States military.

## Chapter 1

### Herman Melville's Billy Budd, Sailor : Calvinist Allusions: Revelation In Outward Signification as a Metaphor for "Essentialist" Judicial Process

In this chapter, I explore an "essentialist" style of knowledge management and a legal process premised upon intuitive knowledge that functions as a metaphorical metonymy for multiple unknowns. In turn, symbolism is considered as revelatory evidence of a self-contained judgment. In order to illuminate this "essentialist" style of judicial process, Herman Melville, in Billy Budd, Sailor, uses Calvinistic allusion in the form of scenes that conjure notions of inevitability in revelation and Pre-destination. In turn, Melville alludes to a Calvinistic understanding of religious symbolism as having a practical purpose in the secular world. This secular use of religious symbolism manufactures a farcical show of due process that ultimately leads to the execution of an innocent man and the creation of a legal fiction in the aftermath that will completely misrepresent the facts but nevertheless create a false sense of unity and cultural homogeneity in opposition to a binary other.

#### The Plot – Discord On Board *The Bellipotent*

England was at war with France. In conjunction with this nuisance, the British Navy is burdened with the threat of attack from rogue pirate bands and malcontented impressed sailors while facing the looming aura of recent mutinies. The commanding officer of *The Bellipotent* is confronted with a perplexing situation. His own Master at Arms reports a mutinous plot that implicates an apparently innocent and unassuming man. The commanding officer becomes obliged to deal with a situation that appears arbitrary and thus threatening to the security and order of this military unit. The unassuming Billy Budd has been on board ship for a brief amount of time. His country is on alert and he has been recently impressed into military service after having come from a merchant ship. He is a low ranking foretopman. He makes friends on board the ship but these are superficial friendships. He bears an

unusual degree of naiveté while lacking social acuity. A sinister man, who happens to be his superior officer, takes an unwarranted interest in him and positions him for trouble. Inspired by the venomous rumors circulated by a character named “Squeak,” Sergeant Claggart hatches a plot. One night Billy Budd is sleeping in his berth when an unknown man awakens him and summons him to the topdeck. In a dazed, sleeplike state, he follows this unidentified man. The man speaks of the impressments and vaguely solicits his participation in some sort of elusive, mutinous scheme. The mysterious man shows him “two small objects faintly twinkling” – two guineas, possibly a bribe (332). Billy Budd, in a stuttering voice, threatens to throw the man overboard. He suspects foul play but decides to be quiet about it. The next day, Captain Vere calls him up to address a formal accusation. Sergeant Claggart has accused Billy Budd of organizing a mutiny. The sailor, Billy Budd, is flabbergasted. He is so upset he cannot speak the words necessary for his defense. Instead he throws one blow to the forehead of Sergeant Claggart sending him toppling to his death on the deck. Billy Budd is charged with murder and later hanged.

*Before beginning a discussion of the legal process on board The Bellipotent, I want to address the following: John Locke, in his “Essay Concerning Human Understanding,” states that wit involves the use of imaginative power through which ideas will be manipulated in order to create the appearance of organization and congruence (Locke 51). Real judgment, he says, requires an investigation into intricate distinctions between ideas and circumstances that avoids creative activity and uses reasoning according to pre-established norms (51). In this same chapter, Locke argues that there is no such thing as “innate speculative principles” and no innate knowledge (55). In my view, this explanation of the use of wit and imaginative power points to the manner in which Essentialism and “essentialist” thinking functions in Billy Budd, Sailor. “Essentialist” process is one in which a person takes one immediately evident, unqualified bit of information and uses it to certify a broad classification. The rest of the missing and unqualified information is contrived through the use of speculative principles, innate knowledge and imaginative power. As the discussion of the legal process in Billy Budd, Sailor continues, John Locke’s*

*commentary on the purposes of legal process and the elements that distinguish fairness from convoluted and manipulation become more contextually validated in the “Essentialist” process that becomes evident.*

#### Captain Vere’s Legal Process – Essentialism in the Plan

On that note, I refer to the legal process of Captain Vere, commander of *The Bellipotent*. His process, it might be said, is spawned through the use of imaginative power and evolves into the manipulation of information in which speculative principles applied through innate knowledge culminate in the execution of an innocent man. Instead of using information as a premise through which to launch a further investigation that will result in a conclusion, Captain Vere does something unusual. Upon hearing vague, superficial information, he draws a conclusion, anticipates a resolution and then attempts to mold information to fit into his conclusive plan for a resolution. His intent is to retrieve one bit of information that will function as a self-contained emblem (symbolic information) that will serve in proxy for a multitude of unknown details – details he desires to keep hidden. In this aspect, his strategy is revealed as “essentialist” in nature. Melville represents this use of imaginative power and the manipulation of information by depicting judicial moments as unfolding with this sense of Calvinistic revelation and deterministic fatalism that points to a pre-destined policy aimed at neutralizing dissension and ambiguity within this wartime military unit.

*Essentialism as The Basic Premise in Billy Budd, Sailor : “The moral nature was seldom out of keeping with the physical make” (Melville 292). This statement is “Essentialist” in nature as it suggests that outward appearances provide evidence of a moral classification. This statement points to a rendering of judgment based upon superficiality taken out of context as a self-contained essence and unexamined in its distinctions.*

To that end, Melville frames the narrative to progress from a scene that sculpts an allusion to a Calvinistic sense of revelation. Thus, the first judicial moment is depicted as something abstract, instantaneous and occurring in the midst of a flutter of thoughts – a revelation. After hearing Sergeant Claggart’s accusation, while a series of doubts race through his mind, Captain Vere experiences an “intuitional surmise” that convinces him that Sergeant Claggart is lying and that the circumstances must escape a public investigation at all costs (343). Something in Sergeant Claggart’s presumptuous and “ostentatious” manner instigates this need for containment (343). In that moment of instantaneous revelation, Captain Vere becomes convinced that it is his duty to manipulate events in a certain manner that will forge an easy resolution. His intention is to stage the inquiry in order that it might produce the expected outcome. For that purpose, he attempts to create his own reality by pre-determining the results. In turn, information that is largely constructed through an intuitive handling of obscure information that leads to broad based classification is “essentialist” in nature. This is significant as the first instantaneous “intuitional surmise” will foreshadow the rest of the inquiry that will proceed under this sense of fatalism and pre-destination.

Therefore, instead of looking for intricate distinctions between ideas and circumstances that will open legal discourse by “trying the accusation,” Captain Vere decides that he must “first practically test the accuser” (Melville 347) with the intent of determining if Sergeant Claggart is a “false witness” – a liar. He seeks proof that Sergeant Claggart is a “false witness” from Sergeant Claggart’s reaction in the presence of Billy Budd and Billy Budd’s emotional response and verbal answer. Billy Budd’s expected verbal denial will serve as his primary judicial tool. The verbal denial or any other action in the moment will function as a metaphorical metonymy for the multitude of unknowns. The denial, if it comes, will suffice as the self-contained judgment in lieu of a discursive review and investigation. The expectation is that Billy Budd will deny the charge, the denial will be accepted and the matter will be settled unless the physical dynamics of the situation reveal a different reality, thus dictating a different course. And yet,

there is also the possibility that Captain Vere anticipated Billy Budd's uncensored impulsiveness from previous hearsay and maliciously staged an anticipated result. It must be acknowledged that upon his arrival on board *The Bellipotent*, Billy Budd's reputation preceded him. The captain of *The Rights of Man* related a story about Billy Budd's impulsive action in an earlier confrontation. Captain Graveling, of *The Rights of Man*, offers several anecdotes about Billy Budd from his prior experience. One such story describes how Billy Budd previously displayed an impulsive swing of the fist in answer to a playful, perhaps taunting verbal attack (295). Could this story actually be the impetus for Captain Vere's "intuitional surmise" and considered out of context and distinction as something "essential" to Billy Budd's character. Could this cursory information have been the material for the creation of a self-fulfilling prophecy? Regardless, Captain Vere's approach is "essentialist" in nature and technique as he is making huge assumptions based upon very superficial information and his intuitive sense of the men and the information he is dealing with. He is expecting a certain, self-contained answer based upon the unknown content of his "intuitional surmise." He applies these assumptions to this judicial process. He intends for the superficial appearances and readily identifiable characteristics of the men to qualify the truth because his purpose is to conceal a revelation of the real circumstances that might threaten the military unit. Therefore, the inquiry is done in private, behind closed doors in the Captain's cabin, with only three witnesses to the verbal testimony and no evidence on either side.

Melville constructs the narrative scene of the initial inquiry into a dynamic in which events unfold with a particular sense of timeliness and spontaneity. This apparent timeliness and spontaneity in the scene adds a scripted quality to the initial inquiry that reflects upon this Calvinistic belief in a revelation of pre-determined realities. Superficial physical signs of grace or depravity unfold with momentary expediency. Thus, the event unravels with an almost pictorial description of the facial expressions of the men, the emotional reactions and even the variations in eye color and pupil size. These physical aspects become the criteria through which Captain Vere intends to mold the truth and



forge a resolution. In the private scene in the Captain's cabin, Billy Budd is "struck as by white leprosy" and his eyes are "blue dilated" (349). His accuser's eyes transform from "a rich violet color" into a "muddy purple" (349). Claggart's eyes, while transforming in color, project a "mesmeristic glance" that evolves into an oddity that looks like the attack of a "torpedo fish" (349). In the midst of the confusion and the anticipated verbal exchange, a "phenomenal change" occurs in the eyes of Sergeant Claggart that affirms the predatory nature of his approach. Sergeant Claggart's predatory approach will be considered in relation to Billy Budd's physical response in words and facial expressions. Billy Budd, in that moment, becomes obliged to speak, but is only paralyzed with fear and rage. The emotional inflections appear automatic, surreal and really beyond the scope of the immediate moment. With this technique, Melville is attempting to disclose the "essential" nature of the inquiry as the information is not discursive and qualified but merely automatic and symbolic of unknown mysteries. Even Claggart's evil nature appears to be something beyond his knowledge and control. As an "uncatalogued creature of the deep," Claggart conveys an expression of "serpent fascination"(349). Is Claggart controlled by the devil and has God placed him in this role or is this sublime scene a manifestation of Captain Vere's attempt to create a self-fulfilling prophecy by staging the inquiry to proceed in a certain manner?

The scene appears to be directed with the expectation that the characters will react as prompted. The manner itself conveys a sense of orchestration that alludes to this Calvinistic pre-determination which is revealed as self-fulfilling prophecy. Calvinism is a doctrine that incorporates a sense of orchestration and pre-determination into the human condition as in its theology, God has decided salvation or damnation from the beginning of time. Those who are damned are helpless and will automatically satisfy the "a priori" circumstances of their depravity. In Captain Vere's judicial process, orchestration and solicited behaviors in superficial physical responses will fulfill the conclusion of the judicial inquiry and satisfy the protocol. In adherence to that aim, Captain Vere coaches a response from Billy Budd. His first interjection is "Speak man, defend yourself" (Melville 349). Then, he offers a more

subdued prompt: "There is no hurry, my boy. Take your time, take your time" (349). However, the correct reaction does not occur. Captain Vere's words cause Billy Budd to suffer a "paralysis." Captain Vere's gentle approach thwarts Billy Budd's efforts to speak. In turn, Billy Budd's face is described as "a crucifixion to behold" (350). His facial expression unveils itself as if under the direction of divine forces – in this case, it is Captain Vere who is forwarding an "essentialist" process in seeking a superficial revelation of the truth. The sign of the cross, or a crucifix itself, represent something "essential" to some. The cross represents a belief system that is unconditionally accepted, and the symbol itself holds a self-contained truth. Thus, the details are largely accepted on faith alone. The superficial physical sign in the cross itself speaks to "essential" truths for the believers. Notably, in this moment and in the reference to the "crucifixion to behold," Melville is metaphorically exemplifying the manner in which Billy Budd's response is treated as "essential" and self-contained and foreshadowing the manner in which Captain Vere uses faith-based notions to conjure the existence of an "essential" state.

One might wonder why Melville would incorporate Calvinist allusion into a scene depicting the sign of the cross and a crucifixion. John Calvin and his progenitors rejected what they deemed to be iconography and worship of statues and symbols. Here is where the distinction rests. Roman Catholics believe in the metaphysical significance of symbolism in icons and statues. They believe that God's supernatural entity is omnipresent in the icon or statue. Metaphysical phenomenon is incorporated into every symbolic act in Catholicism that transforms mere symbolism into a metaphysical reality. For example, Roman Catholics believe in transubstantiation. This term refers to a metaphysical phenomenon in the sacrifice of the Mass. When the Catholic priest picks up the host (a type of bread symbolic of the body of Christ) and says certain prayers, the faithful believe that Christ is actually present in the symbol of the host in the immediate moment. Calvinists reject symbolism in iconography in terms of the metaphysical presence. For Calvinists, symbols have no metaphysical or supernatural significance but can serve a practical purpose. Symbols serve a practical purpose in creating empirical

meaning and reminding the faithful of God's will and His active role in the real world. For Catholics, symbols and iconography indicate God's metaphysical presence within a state of detachment from the cause and effect dynamics in the physical world. Melville, in using the reference to the "crucifixion to behold," was invoking the Calvinist interpretation of the cross as symbolic of God's practical purposes in the real world, thereby alluding to the secular crucifixion that Captain Vere will conduct that is premised upon faith based allusion.

In the Institutes of The Christian Religion, Book I, Chapter XI: "Unlawfulness of Ascribing to God a Venerable Form. All Idolatry a Defection From the True God," Calvin speaks against images of God specifically but does not reject the notion of iconography and symbolism completely (98). He asserts: "Sometimes indeed God hath discovered his presence by certain signs, so that he was said to be seen... but all the signs which he ever adopted were well calculated for the instruction of men, and afforded clear intimations of his incomprehensible essence"(99). He then refers to the biblical account of Moses seeing a representation of God in the burning bush. Further on he develops his theory of a practical purpose for iconography and signs such as the crucifix. Images are to be used as reminders but not for superstitious purposes (102, 105, 106). Calvin allows for the existence of signs, symbols and icons as long as they are dissociated from superstition and not considered as living entities or metaphysical phenomenon. He affirms, "Nevertheless, I am not so scrupulous as to think that no images ought ever to be permitted" (108). "But they, whose religion was, as he expresses himself, more refined, said that they worshipped neither the image, nor the spirit represented by it; but that in the corporeal figure they beheld a sign of that which they ought to worship" (106). The swing of the fist is metaphorically treated as that corporeal figure that represents a sign used for practical purpose to reveal God's will and instruct man regarding what he is obliged to intellectually consider.

Historical evidence of the practices of the early American Puritan Calvinists reveals that they did, in fact, use iconography to some limited extent. Specifically, early American Calvinists used iconography as a reminder to congregants of their religious duties and their duty to avoid superstition, idol worship and Roman Catholic ways. According to Debra Meyers in Common Whores, Virtuous Women and Loving Wives Volume 30: Religion in North America, Puritan cemeteries, particularly in Maryland, contained gravestones and graveyard monuments with carved portraits of deceased saints depicted as a skull and crossbones (74). This was done to warn of the dangers of Papish thinking. This is evidence that the Puritan use of iconography was for a practical purpose in the empirical world. The Roman Catholics, Meyers notes, held the opposite view of iconography and believed in the complete separation between the “temporal and the spiritual” (75). Michael Arthur Harrison in Canada’s Huguenot Heritage: Proceedings of Commemorations Held In Canada, states that Calvinism’s aversion to iconography did not rule out religious symbolism and “visual images” altogether (62). Due to political and military conflicts surrounding the Huguenot movement in France and around Europe in the 1540’s, symbolism and iconography were transformed for practical use as political rhetoric (62).

Captain Vere wants an immediate resolution that is indisputable and “essential” in nature. The example of Calvinistic Essentialism in revelation is displayed in the format that frames the description of the swing of the fist. The blow appears automatic, illogical and unexpected and as an act that escapes explanation to the extent that it appears self-contained. This becomes evident if we look at the manner in which the passage is set up. Captain Vere speaks as a guide or director: ‘There is no hurry, my boy. Take your time, take your time.’ Then Melville’s description reads as follows:

Contrary to the effect intended, these words so fatherly in tone, doubtless touching Billy’s heart to the quick, prompted yet more violent efforts at utterance – efforts soon ending for the time in confirming the paralysis, and bringing to his face an expression which was a crucifixion to behold. The next instant, quick as the flame from a discharged cannon at night, the right arm

shot out, and Claggart dropped to the deck (Melville 350).

There appears also to be another biblical allusion as Billy Budd's actions are set up to appear to be automatic under the direction of a father figure. I believe it is no coincidence that Melville mentions Captain Vere's "fatherly tone" and the phrase "crucifixion to behold" in the same paragraph. (In Christian belief God the father instructed his son to make the sacrificial act of dying on the cross in order to save humanity from condemnation.) In turn, the role of the father, in general terms, is primarily "essential." If this were an ordinary judicial inquiry that was democratic in nature, the expected dialectic between the two participants would occur. And yet there can be no dialectic due to Billy Budd's speech impediment. Thus, the information that is revealed in this scene cannot be discursive. It must be "essential," and so, it is set up to reveal this special set of "essential" circumstances that serves as judicial process. Additionally, Captain Vere, in choosing to accept physical signs at face value without looking for causes, effects and extenuations, is gathering information that has to be largely accepted on faith in the validity of immediate and superficial appearances as indicative of an "essential" and immutable state which might then be molded to fit into a foregone conclusion.

In any case, the only tool Captain Vere is given in this initial encounter in his cabin is the swing of the fist in conjunction with its deadly result. The physical signs and the right words that would have removed the moral ambiguity never reach fruition except through the swing of the fist. Yet with this act, Captain Vere faces an even greater dilemma. He has just witnessed a punch thrown by a subordinate sailor upon a Master at Arms that ends in death. He is dealing with the larger ramifications of an act that might be construed as murderous rebellion. The situation now demands a settlement with more urgency. Therefore the fatal blow of the fist becomes what defines Billy Budd and substitutes for words that were never spoken. In turn, the swing of the fist becomes the "essential" act that will guide the judicial course in lieu of an investigation.

In retrospect, it is Billy Budd's physical and emotional response that was so critical. Billy Budd's

reaction is intended by Captain Vere to be considered as not only his official response to a mutiny charge but as a self-contained judgment - considered as “essential” to his person - a cultural and moral marker that will forge a judicial decision in and of itself. The right words will exonerate him. In turn, a speech impediment serves to incriminate him. The swing of the fist, resulting in the death of Claggart, logically seals his fate under this system. Therefore, this world appears as automatic, revelatory and “essential” due to the fact that any legal process that considers acts at face value eliminates the consideration of extenuating circumstances. This aspect makes the legal decision a foregone conclusion and beyond the control of the individual.

The process is also disclosed as “essentialist” in nature as Captain Vere assigns a mandatory definition to a man and his unfortunate act by relying on information that is superficial and incomplete. As is later revealed, the swing of the fist is evaluated as self-contained and closed to dispute. His “essentialist” strategy uses imaginative power in the “intuitional surmise” to stage the inquiry that leads up to the swing of the fist and evolves into an allusion to predestined revelation as he asks his drumhead court to consider the act as a mysterious, self-contained judgment of a religious nature.

#### Captain Vere’s Process – Creating a Foregone Conclusion

Towards that end, Captain Vere promotes a climate of Essentialism through the use of biblical and faith based language. His first murmurings after the swing of the fist are “Fated Boy!” – meaning that God has directed Billy Budd in his act (350) and therefore the situation is “essential” and indisputable. Divine providence functions as a metaphorical metonymy for a multitude of unknowns. Fate is a notion itself that is presumed to be immutable and inescapable. Thus, with these words, Captain Vere’s is lending an “essential” classification to the act that signifies that he has already made a judicial decision based upon the meaning he alone has assigned to the event. If Billy Budd’s swing of the fist is treated as the will of God or divine revelation, then moral meaning, as part of divine providence is indisputable, and yet the legal explanation could be anything. The judicial process could be molded for

expedient purposes. Therefore, under the continued direction of his “intuitional surmise,” Captain Vere shapes the act of the throwing the fist into something metaphysical and sublime that must be considered at face value as self-contained, “essential,” and subject to a penalty without the full scope of due process.

When the ship’s surgeon is summoned to examine the body of Sergeant Claggart, Captain Vere again makes his declaration of biblical revelation – “It is the divine judgment of Ananias! Look” (352)! While this biblical allusion might merely be the colloquial interjection of the era, it also alludes to the possibility that Captain Vere has already arrived at a judicial decision. The judicial decision is contained in Billy Budd’s sublime act. Melville may not be suggesting that Captain Vere believes that God has caused Billy Budd’s impulsive swing of the fist in order to kill Sergeant Claggart. However, in Captain Vere’s legal process, the act will be considered in this way. Billy Budd, in turn, must become sacrificial in service to the beauty of divine order. With this intention, Captain Vere proclaims “Struck dead by an angel of God! Yet the angel must hang” (352)! Therefore Melville posits the motive for Billy Budd’s action as intrinsic to divine will and the justification for the sentence is suggested as part of divine providence, in anticipation of the “essentialist” process to come. In this context, the act of the throwing of the fist becomes “essential” as part of some divine plan that will eliminate any discursive scrutiny. These words function as the adjunct to military mandate by promoting this sense of Essentialism through the invocation of the divine and the metaphysical. Therefore, in this legal process, as is later affirmed, the will of God works in symbiosis with institutional mandate.

The point for Melville is perhaps to allude to the Calvinistic belief in Predestination as a way to illuminate an aspect of judicial process that refuses to evaluate a situation based on its merits. Captain Vere knows Billy Budd is good and Sergeant Claggart is bad. He knows that Billy Budd is innocent of malice. The punishment will not suit the crime. Guilt or innocence, and the extenuations of malice and/or culpability in any form, are inconsequential in this case. The punishment is validated on Captain

Vere's assignment of meaning based upon superficial classification that qualifies the necessity for Billy Budd's execution.

### Essentialism: Words and Actions At Face Value

If one has faith, then words and actions are considered as equal currency. Faith is something that is required when the unknown is accepted in its speculative state as something to be acknowledged without questioning. For believers, a religious mystery, a statue, sign or emblem are accepted for the understanding of the meaning behind them. This acceptance is based primarily on faith in what the sign, mystery or emblem represents. Because Calvinists recognized only the practical purposes in symbolism as proof of God's participation in empirical events, Melville focuses on the value of physical signs containing religious meaning that are used in a secular setting. Captain Vere desires that the swing of the fist be considered in this manner. In order to expose that epistemological approach, Melville reveals Captain Vere's judicial process as an exercise in the invocation of religious mystery and divine providence for practical purposes. Religious mystery, in the symbol of the fist, does not contain any metaphysical phenomenon. The swing of the fist, as a sign of religious mystery, will have a practical purpose and work in symbiosis with military law. From a legal perspective, the swing of the fist, in being considered in this way, will hold the same currency as words in answer to the mutiny accusation. Under ordinary circumstances, words and actions in our society are evaluated in isolation. A person might say one thing and not do it. A person, in turn, might act in ways that are antithetical to the philosophy he communicates in words. In Captain Vere's legal process, words and deeds hold the same currency and are interchangeable. Both aspects of the human experience are assigned simultaneous meaning. Ordinarily the truth of a situation is evaluated by assessing words in conjunction with deeds in order to get a complete sense of extenuating circumstances and the complete truth. Considering words or deeds in isolation requires the use of faith to fill in the details. In relation to Billy Budd, Sailor, if the details can be filled in with faith – an unsubstantiated belief, then the search for evidence and the need to follow a



democratic process of discursive review will become obfuscated. When words and actions contain the same meaning created through an acknowledgement of the face value of appearances and the mythologies constructed around those appearances, meaning is “essentialist.”

*Captain Vere sought a self-evident Truth:*

*“After scanning their faces he stood less as mustering his thoughts for expression than as one inly deliberating how best to put them to well-meaning men not intellectually mature, men with whom it was necessary to demonstrate certain principles that were axioms to himself” (Melville 360).*

### Why Certain Calvinist Principles Might Serve As Metaphor for “Essentialist” Thinking

In Book 1, Chapter 5 of the Institutes of The Christian Religion – “The Knowledge of God Conspicuous In the Creation and Continual Government of the World” Calvin explains what he deems as a world of divine revelation. Every aspect of the human condition is an occasion for divine revelation and the substance of this revelation is immutable and pre-determined. Empirical circumstances are merely for the purpose of revealing divine will and life as a state of foregone conclusion. The visible world of the senses is considered as the forum for divine revelation and is not to be altered but instead to be recognized as God speaking, revered and submitted to (Calvin 2). Every human action and every phenomenon in nature is thus deemed to be treated as revelatory of divine wisdom and a state of necessity that is not negotiable (3). Within this context, there are good and bad people and good and bad acts. However, choice and decision making are deemed inconsequential as those who choose the good and “willingly devote [themselves] to the service of God” have already been blessed with divine love and grace that gives them the inclination to obey God and do His bidding (5). Evidence of the genuineness of these people will be conveyed to others through physical signs, behaviors and other “glorious manifestations” in the form of worldly displays that instigate the “contemplation” of God (9).

Furthermore, every occasion of human experience within the physical world functions as the platform through which God has decided to reveal His will (9). The whole dynamic is rooted in sensory perception: “We can trace them with the eye, or point to them with the finger” (12). Within the same context, those who perform bad acts are deemed to be in an “essential” state that obfuscates the possibility for reform or modification in any manner as God has placed these people within particular circumstances that will provide the forum for the expression of their depravity – a depravity according to nature that is self-contained and inalterable. Overall, this theological proposal contends that the empirical world is primarily revelatory and therefore containing “essential” qualities that function as epistemological markers.

Cotton Mather, a leading apostle of Calvin in early America, expanded upon Calvin’s theory that God’s will is evident through sensory perception and natural phenomena. In his theological treatise, Magnalia Christi Americana, he clarifies this concept of divine will in sensory perception as “outward tokens and manifestations” of grace. He points to aspects of sensory perception and the functions of the senses as the key variables within the dynamic of divine revelation. He writes, “Invisible grace is made visible to us by some outward tokens and manifestations” (Mather 102). Consequently, through certain physical signs noted in appearance, facial expressions, verbalisms, dress and or demeanor, a person’s spiritual status might be revealed. Included in “outward tokens and manifestations” of grace is also the art of conversation and the use of the right, socially accepted words. According to Mather, “A gracious conversation... can give positive testimony....good words... indicate... a good heart” as per scriptural reading (Mather 102). What is consequential in relation to “outward tokens and manifestations” of grace and “the gracious conversation” is the fact that in early American Calvinistic belief, any information gathered from within this theoretical framework was considered to be “essential” – self-contained, superficial manifestations of indisputable truths. In turn, according to Cotton Mather’s statements, words and actions as “outward tokens and manifestations” of grace might

hold equal currency in constituting the truth. Captain Vere, in turn, employs this epistemological strategy by seeking outward signs and superficial information as proof of an immutable reality and a foregone conclusion. Melville, in his allusions to Calvinist theology, in framing the judicial inquiry to proceed as a revelation of pre-determined events, is highlighting a cultural influence that compels people to mold information in order that it might appear self-contained and revelatory of indisputable, non-negotiable truths. Melville, in choosing to depict Captain Vere's strategy through allusions to this Calvinistic epistemology as metaphor, evaluates a cultural influence that has helped mold "essentialist" thinking within American culture that extends to military justice.

#### Why Would these Theological Invocations Be Considered Essentialist: A Look At The Calvinist Doctrine of

##### Predestination:

I shed light on the possibility of a cultural influence derived from the Calvinistic concept of Predestination as "divine necessity" by looking closely at Calvin's theological ideas. In Book 3, Chapter 21 of the Institutes of the Christian Religion – "Of the Eternal Election By Which God Has Predestined Some to Salvation And Others To Destruction," Calvin discusses his theory of Predestination. "The covenant of life is not preached equally to all"(1), and man has no choice but to accept this state. God has decided from the beginning of time who will be saved and who will be damned. Those who will be saved are given the gift of grace that is "a priori" and cannot be earned through good works (2). The grace which drives the impetus to do good works is arbitrarily given. In that aspect, Calvin theorizes, "God saves whom he wills of his mere good pleasure and does not pay a debt, a debt which never can be due" (3). Those who are chosen or elected to salvation, Calvin proposes, are deemed so by "free mercy, without any respect to human worth" (13). Simultaneously, those "whom he deems to destruction are excluded from access to life by a just and blameless, but at the same time incomprehensible, judgment" (13). His theories reject the possibility for discursive examination. Inquiry

into the will of God is forbidden: “for it is not the right that man should with impunity pry into things which the Lord has pleased to conceal within himself” (4). Man is obliged to accept the “secrets of his will” and even accept his own condemnation as an indisputable, “essential” state. Knowledge of any aspect of the human condition is a privileged, metaphysical entity that is only dispersed on a need to know basis (6). Furthermore, the concept of Predestination works in conjunction with God’s ability of prescience in which He is able to see every human action simultaneously outside of empirical time. “This prescience extends to the whole circuit of the world and to all creatures”(7). Thus, in human terms this decree is to be understood as exacting into posterity and for all future generations within the parameters of human time. From these passages, it might be concluded that information within this theological premise is required to be accepted at face value as evidence of “divine necessity” – therefore an “essential” state. A self-contained invocation based upon a theological premise functions as a metaphorical metonymy for a multitude of unknowns. The information is “essential” as it is to be considered as non-negotiable and not subject to investigative study and examination. Captain Vere, in the following passage that describes the drumhead court procedures, treats his invocations of divine mystery in the same manner. He contends that his officers must not pry into theological mysteries, but instead accept the phenomenon of Billy Budd’s case as “essential” and believe that the swing of the fist is emblematic of divine mysteries that will be reconciled under military law. In this aspect, Melville frames Captain Vere’s words as an allusion to the Calvinistic concept of “divine necessity” in Predestination.

Mandate

Therefore, in the drumhead court that follows, Captain Vere instructs his fellow officers that only consequences should be considered in this case (358). His attention to consequence alone supports the suggestion that he is determined to have the event considered as an inevitable, “essential” state. The discursive nature of democratic process looks for motives, causes and effects. If an occurrence is part of something already pre-determined, either through divine will or Captain Vere’s “essentialist” strategy, Billy Budd’s motives (or lack thereof) are irrelevant. The swing of the fist is to be considered by the officers of the drumhead court as something ominous and revelatory and thus as an act that is incontestable. Therefore, as the trial proceeds, Captain Vere again refers to a faith based abstraction in order to sustain this Calvinistic sense of inevitability within the legal discussion among the officers of the drumhead court. He labels the dilemma of Billy Budd’s innocence as “a mystery of iniquity.” How can a “mystery of iniquity” be applied to military law? How can a “mystery of iniquity,” a faith based notion regarding Billy Budd’s guilt or innocence, be the supplemental currency through which to justify the full power of military law in the use of the death penalty? In other words, on what legal grounds is this case “a mystery of iniquity”? This statement is “essentialist” as it obfuscates the occasion for a perusal of the information and open discourse. “A mystery of iniquity” lends a self-contained classification to an act with no evidence to sustain the classification other than the appearance of the swing of the fist on its face. Captain Vere never orders a search for evidence or any sort of investigation. Furthermore, his officers are not obliged to consider the question of Billy Budd’s innocence as the purpose of justice in the military court. And yet a fair judicial process would have facilitated a complete investigation of all aspects of the situation and allowed for the collection of physical and/or circumstantial evidence that would either confirm or refute Billy Budd’s innocence.

Instead, Captain Vere reiterates his point, “It is a matter for psychologic theologians to discuss” (Melville 359). Again, he assigns a self-contained classification based only upon the swing of the fist itself. This statement indicates a second faith based notion that illuminates the aspect that the situation is a foregone conclusion – a pre-determined reality. Yet if this matter were as abstract in nature as to require deep philosophical inquiry, how can the broad based application of military law be justified in this case? The event, as Melville frames it, functions as a sign from God and man is only obliged to act according to the events occurring as a result of that swing of the fist. Is Captain Vere suggesting that justice is God’s duty and that man is only obliged to respect the physical evidence of God’s active presence on earth? No, I do not believe so; however, Melville is perhaps satirizing a key cultural epistemological approach to problem solving through his use of the invocation of faith based inevitabilities. His technique of depicting a symbol treated as predestined revelation within a secular venue is consistent with the Calvinistic understanding of religious symbolism. The swing of the fist, as God’s sign, works in symbiosis with military law. The swing of the fist contains an “essential” property as a signifier of divine will that holds legal currency. Therefore, if the swing of the fist is to be considered analogously to a cross or other religious symbol, Captain Vere’s instruction that they are not “casuists or moralists” makes sense in disqualifying them for the task of judicial scrutiny. If the swing of the fist is analogous to a cross in terms of signification, it functions much as a Calvinistic type of religious signification in its secular purpose and function. For Captain Vere, the swing of the fist, as a symbol of divine mystery, possesses a self-contained earthly judgment in pre-determined revelation. Captain Vere’s strategy becomes “essential” as classification is assigned to the proceedings based merely on the act of the swing of the fist – taken at face value as indicative of divine mystery in an irresolute state that warrants the death penalty under military law.

### The Essentialist Nature of The Ultimate Plea for The Death Penalty

In addition, Captain Vere implores his officers to consider the political appearance of an acquittal. Proof that he asks his men to consider the ramifications of the political appearance of the act is evident in the following passage when he asserts: "They would think that we flinch, that we are afraid of practicing a lawful rigor demanded at this juncture" (Melville 364). In this passage, it becomes clear that Captain Vere arrives at some definitive conclusions based upon intuitive knowledge that is anticipatory of a certain required outcome. He formulates a strategy based upon his own innate knowledge that is designed to reduce risk. The aim of political study is often to make projections regarding future outcomes and reduce risks. Politics is often symbolic, categorically driven and classifies based upon incomplete, often cursory information. Political strategies often assign "essential" classifications in order to organize information and anticipate results. In turn, how often are political questions juxtaposed with religious metaphors? Could Captain Vere prove that the blow was intended to kill? Could he prove that Billy Budd's execution was necessary to prevent mutiny? As revealed in his instruction to the drumhead court, his procedure is the antithesis of democratic process: Captain Vere emphasizes his primary point as follows: "The prisoner's deed, with that alone we have to do" which contradicts his earlier statement asking the men to only consider consequences (Melville 359).

Additionally, his view of his crew is "essentialist" in nature. He automatically assumes, based upon his superficial knowledge of their intelligence and background juxtaposed with their seemingly crude ways, that they do not have the mental acuity to objectively cope with the truth. He assumes they can be manipulated through fear as might be the case with inferior intelligences.

### The "Essential" Role of The Witness

Captain Vere's words stifle any opposition from the marine soldier and the first lieutenant whom Melville chooses not to name (359). In turn, he offers his men a role that excuses them from moral culpability. As Captain Vere asserts, he is merely "but a witness," and therefore not bound to

make a personal decision (361). The decision is supposed to have been made by the self-contained truths in the swing of the fist itself. The officers of the drumhead court are to act as agents of the “essential” truth in the self-contained act that is subject to military law. “We nevertheless adhere to it and administer it,” he states (362). Yes, Captain Vere does indeed invoke the contingency of maritime law in its most stringent form; however, it is not the application of the law but the process of arriving at a legal conclusion that is consequential.

In stating that he is merely “a witness,” Captain Vere appears to be directing the court of inquiry away from judicial deliberation of any sort. Those words propose a foregone conclusion – a pre-determined state. He implies that in his role as a witness, he bears no obligation to intervene on behalf of the individual, make a decision or invest a personal stake by launching an inquiry. If every person is only a witness to events as they unfold, and not a causal participant in any way, then the events themselves must be considered as a play being acted out on the stage according to a pre-written script. A state of existence, in this case, is “essential” and indisputable as the course of actions has already been pre-determined. Thus allusions to the Calvinistic notions of Predestination and “revelation” serve well as metaphors for this scenario. In that spirit, he instructs the men of the drumhead court to consider that in this case they “are not responsible” (362). If they are not responsible, then who is? In turn, these words infer that the situation is fixed and inalterable. Captain Vere insists that military law is responsible, and in that aspect, inalterable in its application; however, this contention is never proven. Billy Budd is executed before his case can be heard by an admiral and filtered through the full scope of military law. Therefore, in his explanation of the duties of a witness, Captain Vere is proposing a role that is antithetical to democratic process. He is affirming that in his capacity as a witness, he bears no obligation to launch a discursive investigation.

Evidence that Melville was thinking about Calvinism when he wrote this narrative, is contained in the passage following Captain Vere’s final plea for an execution. The officers of the drumhead court



were poised as if “like that of a seated congregation in hell listening to the clergyman’s announcement of his Calvinistic text” (Melville 369). This passage establishes that the men are somehow persuaded to accept “essential” information in lieu of discursive review. A sermon is always considered as “essential” and not discursive. Captain Vere’s arguments constitute a sermon that is to be accepted unwittingly based upon faith.

*In Chapter 11 of Billy Budd, Sailor, Melville cites Calvinism and the concept of “innate depravity” as an individual phenomenon (325). Therefore, his intention is perhaps not to infuse a direct use of Calvinism in the novella, but instead to highlight the existence of a culturally specific epistemology that influences individual behaviors.*

#### The Particulars of Military Law – Varying Aspects

While some contemporary scholarship holds to the idea that Captain Vere is merely attempting to apply military law in isolation and apart from other qualifiers, there is evidence to suggest that Billy Budd, in his capacity as an impressed sailor, may not have fallen under the jurisdiction of any military law. If Billy Budd, in his capacity as an impressed sailor, did not fall under military jurisdiction, a thorough investigation and a trial before the admiral would have disclosed a tangible and formidable weakness within the military structure. The case perhaps might have presented a scenario in which the application of military guidelines would have been legally obscure or unfounded within the letter of the law. Still, the suggestion is that Captain Vere is not a man who would ordinarily act rashly or unjustly. Captain Vere, in Melville’s account, is a moderate man. He “was no lover of authority for authority’s sake” (Melville 355). And yes, he is devoted to military protocol to a degree but he does not come across as someone who would have been unable to see reason. Furthermore, he has been evaluated as a Burkean conservative. The term refers to a mode of thinking fashioned in the style of an eighteenth

century British politician and political theorist Edmund Burke who believed in orderly government and moderate thinking and behaviors. Burke, while holding certain traditional views was also an open minded thinker and detested ideological extremes. It seems hard to believe that someone fashioned from the model of Edmund Burke would choose the extreme path Captain Vere chose without a very good reason. While not an extremist, Burke's political writings were indicative of a type of guarded conservative thinking. He wrote a treatise entitled "Reflections Upon the Revolution in France" condemning the French Revolution. He was fearful of radical political change and threats to any established order. Ironically, the ship Billy Budd left, *The Rights of Man*, is of the same name as Thomas Paine's literary response to Edmund Burke's condemnation of the French Revolution. Brook Thomas in "Billy Budd and the Untold Story of Law," postulates that Captain Vere was fashioned in the image of Edmund Burke primarily due to the fact that Burke, as Captain Vere, believed that the world relied to a certain extent upon a fixed institutional standard (Thomas 55). Melville does place emphasis on Captain Vere's reliance upon "measured forms" (Melville 365). The notion of a fixed institutional standard that is immutable in nature speaks to an "essentialist" epistemology that is antithetical to the amenable democratic discursive process and the dynamic of pluralistic coexistence. Perhaps Captain Vere's approach is indicative of a cultural sense of "essentialist" thinking that is so ingrained and/or commonplace that it might be applied without so much as a fleeting thought as to its process and the ramifications of that process. Captain Vere may have also held a malicious intent from the start regarding Billy Budd – a malicious intent that may have not become fully formed until Sergeant Claggart forced him to deal with the possibility of a viable military threat. As Melville discloses in Captain Vere's conversation with Captain Graveling, superficial information molded Billy Budd's profile from the start. Armed with the information from the captain of *The Rights of Man*, Captain Vere may have already formed an "essentialist" view regarding Billy Budd's potential for impulsive behavior and decided to set the stage through which to expediently draw out this behavior and forge a final resolution.

Andrew DelBanco, in Melville: His World And Work, notes that Captain Vere was actually abiding by the strictest interpretation of the Royal Navy's Articles of War that reads as follows:

If any officer, mariner, soldier or other person in the fleet, shall strike any of his superior officers, or draw, or offer to draw, or lift any weapon against him, being in the execution of his office, on any pretence whatsoever, every such person being convicted of such offence, by the sentence of a court martial shall suffer death... (309).

Yet stipulations in this maritime law allowed that directives regarding military procedure were not absolute and exact on the subject. The law was arbitrary to the extent that it accommodated at least some alternative possibilities that could be considered within the parameters of legal sanction.

Captain Vere rationalizes his decision to call for the execution of Billy Budd as in adherence to a mandatory naval punishment for a physical attack upon a superior officer. Captain Vere states: "In wartime at sea if a man of war's man strikes his superior grade and the blow kills. Apart from its effect, the blow itself is, according to the Articles of War, a capital crime" (Melville 363). Therefore, "the prisoner's deed, with that alone we have to do," he argues (359). And yet there is a contradiction here. Previously he had instructed his men to consider the consequences and not necessarily the act itself. Then within minutes, amid anxious speculation amongst his officers, he invokes the "Mutiny Act" (363). Yes, hitting a superior officer under the Royal Navy articles of War is considered to be a mutinous act; however, a mutiny conviction would require proof of a conspiracy. Even so, if Billy Budd were to be considered guilty of mutiny based upon the swing of the fist that would be one thing; however, Captain Vere instructs his men on an earlier occasion only to consider consequences. Furthermore, a mutiny never occurred, and there was never even proof of a conspiracy. If the Royal Navy Articles of War gave written authority to execute Billy Budd merely for swinging the fist, then why does Captain Vere initially instruct his men to consider the consequences? His line of reasoning does not consistently coincide with the military precedents that he cites.

Nevertheless, if this deference to military authority were ironclad, then why was the discussion avoided and why were the legal stipulations invoked inconsistently with no censure from the officers. The incorrect application of the “Mutiny Act” would have been the legitimate excuse to circumvent the notion of the inevitability in the military law. What convinced the officers of the drumhead court to ignore the obvious discrepancies and acquiesce? Perhaps they were attuned to this “essentialist” manner of thinking that allowed them to accept this sense of inevitability as emblematic in the swing of the fist. Additionally, if we are considering a cultural epistemology in which words and deeds have the same currency, then the swinging fist could be considered with the same weight as a verbal confession to mutiny. If acts hold equal currency with words in terms of establishing meaning, then there is no need to hold the discussion and delve into the words that would address extenuating circumstances. The act alone would be considered as indisputable evidence. Thus, Captain Vere instructs his men to consider that they have only to deal with Billy Budd’s deed on its face: “The prisoner’s deed – with that alone we have to do”(359). Still, it is unclear which aspect holds more legal weight – the act or the consequence. The final justification for the execution of Billy Budd is a political statement that is “essentialist” in nature. Captain Vere insists that based upon his cursory information regarding the crew, severe punishment is all they will understand.

What is equally peculiar is the fact that Captain Vere enlists Mr. Mordant, a Marine soldier, to be part of his tribunal. Was there perhaps something deliberate and calculating in choosing a person who might not be familiar with Naval law and procedure? Even this marine, however, is suspicious of the situation on board *The Bellipotent*. He points out that Billy Budd’s fate need not be inevitable as the drumhead court is limited in scope and consisting of only a few men (359). As he states, “Nobody is present – none of the ship’s company, I mean – who might shed lateral light, if any is to be had, upon what remains mysterious in this matter” (359). This comment reminds the reader of the clandestine nature of the proceedings themselves. Captain Vere wants privacy and seclusion in his trial proceedings

and as few participants as possible because primarily he “wanted to be the one on whom the ultimate accountability would rest” (Melville 355). In this statement, Captain Vere is confirming that his legal decision is not really based upon the law but upon his own personal decision making process that utilizes intuitive knowledge. Therefore, he is acknowledging that the “ultimate accountability” that should rest solely on the letter of the law is sustained by his own personal judgment. If he was dealing strictly within legal guidelines, consent might be obtained among a large group. However, if one were attempting to justify an execution based upon “essentialist” thinking masked as divine necessity, then it would be more expedient to confine one’s attempts to a smaller group. That is not to suggest that a smaller group would render intellectual submission with any greater ease. Still, a trial within a closed group might perhaps narrow the scope of discourse.

C.B. Ives in “Billy Budd and The Articles of War” reviews the contents of the actual military “Articles of War” of the British Navy in the historical period in question. The actual document calls for execution only upon conviction by a general court martial (Ives 88). A drumhead court martial such as the one implemented by Captain Vere, would not have been legally sufficient to merit the judgment in this case. Billy Budd, Ives says, is not executed for mutiny in any case as such a judgment would have required corroborating evidence and proof of a plot contrived between two or more persons (Ives 89). He is hung primarily because he punched a superior officer resulting in the said officer’s death and the appearance of such an act might inspire mutiny.

In any case, United States military law would have afforded an avenue of recourse. Article 119 of the Uniform Code of Military Justice contains specific guidelines for punishing the act of involuntary manslaughter. “Any person subject to this chapter who, without intent to kill or inflict great bodily harm, unlawfully kills a human being” will receive a maximum punishment of ten years. Captain Vere never allows for the opening of any debate or investigation regarding Billy Budd’s intentions. “Budd’s intent or non-intent” was “nothing to the purpose” (Melville 363) and as such, reaffirmed in Captain Vere’s

creation of an “essential” state of circumstances that reflect upon this Calvinistic belief in Predestination. British law under the Royal Navy Articles of War in 1842 was something else altogether, but was Melville really talking about the British?

Richard Weisberg, in The Failure of The Word: The Protagonist As Lawyer in Modern Fiction, states that while it is true that merely hitting a superior officer constituted a violation of the Mutiny Act and is punishable by death, Sergeant Claggart is not acting in the capacity of his office. He is lying, Weisberg says, and this aspect invalidates his legitimacy in functioning as an agent of the Royal Navy in the capacity of his rank (Weisberg 154 ). Furthermore, he contends that the trial employs several procedures that are unusual for a military venue. First, Captain Vere assembles his court on the spur of the moment. The officers chosen for the drumhead court have no trial experience. Furthermore, he notes, according to Naval law, a drumhead court must have five judges. This court has only three judges and follows summary court and not drumhead court proceedings. (Weisberg in Solove 2449). Captain Vere, he notes, also chooses officers with limited mental abilities as perhaps “their intelligence was mostly confined to the matter of active seamanship and the fighting demands of the profession” (Melville 356). Captain Vere, Weisberg observes, is also deliberately deceptive in setting himself up as the sole witness and the only one to give the final argument (Weisberg in Solove 2449). Weisberg stipulates that the Royal Navy Articles of War, as Captain Vere applies them, only pertain to deserters and mutineers of which Billy Budd is neither (Weisberg 150). Also, trials are supposed to be deferred to the admiral of the fleet for the final judgment with the exception of mutiny and the required number of judges has to be five above the rank of “port captain” (150). Captain Vere, he also observes, uses summary court procedures, ordinarily applied for misdemeanors, in his drumhead court (150). Captain Vere fails to return to his squadron to consult with the Admiral of the Fleet. Article 4 states that Captain Vere is only personally authorized to punish Billy Budd to the extent of “12 lashes upon his bare back with a cat-o-nine tails” (151). Furthermore, Weisberg notes, Captain Vere performs multiple roles in the

trial acting as judge, jury and witness. This is a violation of naval legal procedure. Also Section II, paragraph 22 of the Royal Navy Articles of War states that the penalty for hitting a superior officer is death; however legal precedent flies in the face of this stipulation (152). Legal precedent under British military law supports leniency in such cases. Also, the fleet commander is the only one authorized to implement the death penalty – except in cases of mutiny (153). Because of this avoidance of the fleet commander and the narrow scope of the legal proceedings, they are clandestine (153). Section 2, paragraph 22 of the Royal Navy Articles of War states that Billy Budd must be executed for striking a superior officer while the said officer is acting in his capacity as an officer or “being in the execution of his office” (154). What is equally significant is that the term “martial law” has a secondary meaning. The secondary meaning of “martial law” entitles a military commander to operate in a discretionary manner in consideration of a sense of urgency or military expediency that a situation might require (156). In British legal history/precedent, Weisberg states, only the King, Parliament, a governor or a fleet admiral can apply this meaning of “martial law” (156). And finally, Weisberg argues that Captain Vere’s invocation of the Mutiny Act is an incorrect application of military law. Weisberg cites C.B. Ives, and Hayford and Sealts who contend that the Mutiny Act really only applies to Naval subjects while on land or in land-oriented circumstances (157).

Weisberg, in his analysis of the trial of Billy Budd, and in his observations of the failure of due process under the direction of written law, touts the premise that intuitive knowledge is the element at work. Not only does he assert the viability of this intuitive knowledge incipient in the legal process. He proposes that the dynamic is evidentiary of a proliferation of intuitive knowledge in Western culture that is spawned through the ubiquitous application of Christian belief systems. He states that the trial of Billy Budd and Captain Vere’s legal strategy “depicts Christianity as the initiator into Western civilization of ressentient values that substituted narrative falsehoods for overt justice” (Weisberg 175). I contend that these “ressentient” values that guide the narrative are evidentiary of a cultural Essentialism that on

some level helped sustain this sense of a pre-determined inevitability that would ultimately secure a judicial decision that authorized the death of an innocent man.

Jeremy G. Epstein and Vikram Sidhu, students at the New York University School of Law, constructed a legal brief and argument for a simulated Billy Budd court case entitled “Brief Of Appellee – The Royal Navy.” In this legal brief, they carefully reviewed all the stipulations of the Royal Navy Articles of War as well as filtered the case through United States law and legal precedent. They disagree with Weisberg in that they feel that the application of the Mutiny Act by Captain Vere is ironclad. They cite the section from Royal Navy Articles of War where it is stated in clear, exact terms that hitting a superior officer requires a mandatory death sentence. They also state that the procedural errors in Billy Budd’s case were “harmless” and inconsequential (Epstein, Sidhu 18). They refute Weisberg’s claim that Sergeant Claggart is not functioning within the capacity of his office due to his lying. They claim that Claggart is the chief of police on board the Naval vessel and that the physical assault is primarily an affront to the authority of his office, therefore his personal offense of dishonesty is inconsequential (12).

In the final judicial statement, Captain Vere never specifically states the charge of mutiny or anything else (Melville 368). He desires that the charge remain obscure because he knows the military justification might be deemed fallacious. Therefore, he intends for the letter of the law to avoid scrutiny. His plan, as commander of *The Bellipotent*, is not to affirm a cause and effect scenario, but instead to create a circularity with a faith based abstraction that points to absolutes and “essential” states in military justice. After all, the “consequence for violating discipline should be made to speak for itself” (Melville 368).

*Legal Precedent: The Unwritten Code - “Private conscience should not yield to that imperial one formulated in the code under which alone we officially proceed” (Melville 362).*



### Melville and Calvinism: His Own Cultural Connection

Melville certainly led a life that was continually subject to negative turns of fate. He had more than his share of unfortunate circumstances. During his childhood, his father descended into bankruptcy, lost his business and eventually went insane and died of some mysterious illness. This left Melville's mother as a widow with eight children. Five years after his father's death, his brother's business failed. Melville had two sons, one of whom committed suicide at the age of eighteen. The other died of tuberculosis at the age of thirty-five. Melville was raised in the Dutch Reformed Calvinist Christianity. Yet, as James A. Townsend in "Grace in the Arts: Herman Melville: An Author in the Angst of Ambiguity," contends Melville did not completely embrace Christian belief nor did he absolutely accept the Bible. Although he cited the Bible numerous times in his works, he considered it to be like any other piece of good literature and not something necessarily sacred. He compared the Bible to Shakespeare in value (Townsend 63). Yet, in spite of his skepticism, these Calvinistic Christian ideas were constantly on his mind and guided the scope of his literary discourse.

Harold Bloom suggests that Melville was not a Christian. According to Townsend, this was a rational assumption based upon his novels, poems and other writings in which he questioned his Calvinistic background. It is evident in the saga of Billy Budd that he was considering cultural influences within the context of social commentary. His intent in Billy Budd Sailor was perhaps to use Calvinism as a tool through which to expose American cultural Essentialism and its epistemological applications to everyday life.

Calvinism was decidedly part of Melville's world not only in relation to his background and upbringing. The doctrine of his early years influenced his thoughts and ultimately became transposed into one of his tools of literary creation. T. Walter Herbert, in Moby Dick and Calvinism: A World Dismantled, explores the dynamics of Melville's Calvinistic background and the context for his religious

upbringing and family circumstances. His mother, Maria Gansevoort, was raised in the Dutch Reformed Church with its “shrewd authoritarianism” (Herbert 29). Her mother was a very devout traditional Calvinist. Allan Melvill, Herman’s father, was more affiliated with a liberal group of Calvinists and Unitarians. Allan only became associated with the Dutch Reformed Church through marriage; however, neither he nor his wife became official members of any church. Allan spoke often about his religious beliefs which tended to be subtly anti-Calvinist in nature while his wife was silent (33). In addition to his father’s influence, Melville was affected by a boyhood friend who became a Calvinist minister and a historian. In spite of these early influences, Melville retained an open-ended view of the world.

It is possible that Melville was skeptical of Calvinism as a belief system and considered the ideology in relation to all other ideologies as primarily an influence upon social thought and human action that was ambiguous and yet potent. Hershel Parker, in Herman Melville: A Biography Volume 2 1851-1891, notes that Melville spent much time contemplating the distinction between “superstition and knowledge” and the ways in which the two become confused and intertwined (16). Parker notes it is possible Melville believed that theological notions guided rational thinking on many levels, thus blurring the lines between reason, social thought and metaphysical knowledge (16). He cites the passage from Billy Budd that alludes to Captain Vere’s possible insanity - “who in the rainbow can draw the line where the violet tint ends and the orange tint begins” (Melville 353). He makes the suggestion that Melville recognized the ambiguities prevalent in what is considered to be rational thinking and the relativity of rational thinking itself.

#### Melville struggled with theological issues:

Parker discusses Melville’s study of John Milton and specifically Paradise Lost. In his copy of the work, Melville makes notations that comment upon Milton’s atheistic insinuations (405) and the fact that he himself questioned his own beliefs on many occasions and in many contexts. He writes, “He who

thinks for himself can never remain of the same mind. I doubt not that darker doubts crossed Milton's soul, than ever disturbed Voltaire" (Melville in Parker 405). In Parker's biography, he addresses Melville's observation that Milton gave the Devil too much power and agency in Paradise Lost. This might suggest Melville's consideration of the strong social influences that proliferated due to a man-made manipulation of theological concepts and man's exaggerated role in constructing belief systems.

In a passage from Melville's novella Mardi: A Voyage Thither, a character named Bardianna comments on the nature of evil as primarily a man-made creation, thereby hinting that Melville was questioning Calvinism and the doctrine of Predestination:

All men are possessed by devils; but as these devils are sent into men and kept in them, for an additional punishment; not garrisoning a fortress, but limboed in a bride-well; so, it may be more just to say, that the devils themselves are possessed by men, not men by them. (976)

The preceding passage suggests that man has control over corrupt behaviors and can choose to embrace dark forces or reject them. However, another passage in Mardi, in which Babbalanja leads a philosophical discussion, appears to advocate for Predestination: "Fatalism presumes express and irrevocable edicts of heaven concerning particular events. Whereas, Necessity holds that all events are naturally linked, and inevitably follow each other, without providential interposition, though by the eternal letting of Providence"(1081).

There is no proof that this passage reflects upon Melville's personal view, and yet it recognizes at least Melville's contemplation of the notions of fate and necessity - theological aspects of "essentialist" thinking. Furthermore, this passage establishes a semantic link between the concepts of fatalism and Predestination - fatalism is defined as "irrevocable edicts of heaven." It also suggests that fate is an aspect of divine will. If Melville's intention was to define fate as an aspect of divine will, then his use of the term in Billy Budd Sailor might point to his specific intention to use Calvinistic allusion.

Captain Vere's uses the word "fated boy" as pertaining to Billy Budd after the swing fist that kills Sergeant Claggart. This information implies that Melville was considering a cultural premise in which a certain sense of inevitability was indisputable due to a ubiquitous belief in innate propensities. This passage also reflects upon Jonathan Edward's Calvinistic belief that people only have free will to the extent that they are free to act according to their God-given, innate compunctions for good or evil. The suggestion is that people are beholden to their "essential" natures, and thus really devoid of much free agency. Perhaps Melville did not personally hold these "essentialist" beliefs but recognized them in others and in American society in general and thereby considered these notions as a viable topic for literary discourse.

Further on in the discussion, Babbalanja argues that "Oro is immutable wherefore our own future is foreknown and foreordained" (1083). He then cites biblical precedent in prophecy and prophecy fulfilled as proof "that every man now living is an irresponsible being" (1083). If every man is in fact irresponsible, he requires definition and instruction. Perhaps this passage hints at Melville's consideration of the cultural influences of Calvinism and the debate surrounding the value of these influences.

T. Walter Herbert Jr., in Moby Dick and Calvinism: A World Dismantled, states that during Melville's time there was an ongoing debate within various sects of Calvinist Protestantism. Orthodox Calvinists believed strongly in revelation and the power of the imagination as proof of divine will and God's active role in the empirical world (Herbert 132). Those completely opposed to Calvinism strongly questioned the concept of "Providence" and Predestination as these beliefs suggested that "self deception was characteristic of the human mind" (Herbert 131). In turn, this element of self-deception within the human condition would not be consistent with the notion of a loving God. Proponents of traditional Calvinism argued that there was a "comprehensive spiritual vision" that was bound to keep

some within a state of self-deception (131). This “comprehensive spiritual vision” became evident when people recognized symbols and superficial signs as proofs of faith based notions and applied them to imaginative thought. In turn, this imaginative thought could be applied to real world situations. Herbert notes that Melville held a markedly different view of symbolism and its validity in establishing meaning. “Melville was suspicious of radically private meanings,” Herbert states (131). He believed that a faith based acceptance and understanding of symbols was a destructive illusion. He rejected the notion that “meaning and fact” were one and the same or that superficial physical signs could function as proof of self-contained, immutable truths. It is evident that he was thinking about the epistemological struggles within the new American democracy and the ways in which the law and reality were in contradiction when he placed the setting in the England of 1797 and the Napoleonic wars.

#### Why Did Melville Choose a British Ship as the Setting?

Granted, Melville chose an English Naval ship sailing on missions during the Napoleonic Wars with France as his setting and in the wake of the sublime event of the French Revolution. Still, I feel that he was symbolically writing about Americans and America. Perhaps the English sailing ship serves as a metaphor for this supposedly ideal American society. Andrew Del Banco, in Melville, His World and Works, observes that England was considered by some to be the last emblem of civilized society in Western Europe and for others to be excessively orderly and repressive (303). American democracy followed the model of the mother country in many ways. As England was perhaps not what it seemed, or at least not true to all of its values, so in turn was the United States becoming a nation that had lost sight of the true meaning of democratic idealism. In his lifetime, Melville saw the distortion and misuse of democratic ideals and the contradictions between the concept of justice and the reality for ordinary citizens. Andrew Del Banco states that Melville’s era was a time of turbulent conflict and injustice in the United States. It was the period of post civil war reconstruction and gross violations of civil liberties

were rampant. Federal troops were being dispatched in the South and the North in order to subdue civil unrest. Striking industrial workers were being murdered by hired gangs. One violent workers demonstration took place not far from Melville's home (DelBanco 304). Wages were low and prices were high. He witnessed the ugly side of Capitalism and corporate greed.

According to Del Banco, the event that perhaps most influenced Melville's consciousness of the lack of civil rights in America was the Haymarket Hangings in which leaders of an anarchist society were executed for murder without conclusive evidence (305). They were assumed to be guilty of murder because they voiced their anarchistic views in anti-government speeches. Their status as vocal free thinkers carried with it an automatic presumption of ubiquitous guilt in all matters. Robert K. Wallace, in "Billy Budd and The Haymarket Hangings," offers a study of the political circumstances in America at the time of the Haymarket Hangings (108-113). He contends that it was this presumption of comprehensive guilt that was used in a court of law to convict politically feared men of a bombing that inadvertently led to the death of several policemen in the Haymarket area of Chicago, in spite of a lack of evidence (110). One might recognize an evident Essentialism in the automatic assignment of guilt based upon superficial evidence in political rhetoric and the correlating mythologies. Wallace also observes that it was actually the Haymarket Hangings that instigated a renewed discourse on the *USS Somers* Mutiny of 1842, an event that had occurred forty years earlier and which is considered the inspiration for Billy Budd, Sailor (111). At the time of the Haymarket hangings of 1887, Melville was working on his final revision of Billy Budd, Sailor. Wallace states that, while no solid evidence exists that directly links Melville's work to considerations of the Haymarket Hangings, the plot structure in successive versions of Billy Budd Sailor correlates to the series of events in the Haymarket Hangings; both events hold a thematic similarity (111).

Richard Schneirov, in "From the Trial to the Hangings," notes "in retrospect the verdict was a foregone conclusion"(1). The Haymarket defendants hired a decent attorney but to no avail. Melville, in Billy Budd, Sailor, appears to make a conscious effort to address the existence of a pre-determined judgment and the necessity of a foregone conclusion. With that intention, Captain Vere argues declaratively with the words "fated boy" and "struck dead by an angel of God, Yet the angel must hang" (Melville 352)! During the Haymarket Bombing trials, the prosecution is unable to provide eyewitness testimony (Schneirov 1). Instead they argue for the existence of a conspiracy connected to the Haymarket Worker's Meeting; however, "as Captain Black pointed out, without the identity of the bomb thrower being known, there was no way to prove a conspiracy" (1). In spite of this fact, the argument for conviction was founded on the presumption that the bomb thrower must have been one of the anarchists (2). In Billy Budd, Sailor, Captain Vere hears an accusation by Sergeant Claggart implicating Billy Budd in a mutiny plot. This accusation is considered as something that warrants indisputable and conclusive action. The following passage reveals Captain Vere engaged in some unknown internal process of knowledge management that appears to direct the course of events surrounding the mutiny accusation, the accidental death and the hanging of Billy Budd and correlates rhetorically to the "essentialist" strategy in the Haymarket Trials that assigned ubiquitous guilt based upon a reliance on superficial, unqualified information: "But these thoughts and kindred dubious ones flitting across his mind were suddenly replaced by an intuitional surmise which, though as yet obscure in form, served practically to affect his reception of the ill tidings" (Melville 343). The words "practically to affect" in juxtaposition with his "intuitional surmise" imply that Captain Vere will use intuitive knowledge in the practical application of justice much as the Haymarket Trials did.

In addition to the Haymarket travesty, it is possible that Melville witnessed the same patterns in the process of American democracy that were occurring in England at the same time. To place the setting of Billy Budd, Sailor in England would conjure this sense of objectivity and rhetorical distance

that would fashion the information as a plausible reality with respect to the average American sense of loyalty and sentimentality. If this gross violation of human rights were occurring on a British ship in the year 1797, the remoteness of the reference would perhaps disarm the American reader enough for the information to be viewed in a disjunction from emotional feelings of patriotism and loyalty that ordinarily might block the mind from viewing the United States in Melville's time as it really was.

#### Devil's Advocate Scenario – Why Captain Vere's Actions Might Have Been Justified

In spite of the injustice of the situation, it is reasonable to consider the need for some sort of indisputable and decisive action on the part of Captain Vere. It is evident that moral reinforcement is necessary. It is a time of war and numerous impressments and recent mutinies on board other British ships are facilitating a climate of dissent and perpetuating a rhetorical dialogue for this dissent. There is a crucial need to nurture and refurbish the myth of military power in the administrative capacity. The ship holds considerable numbers of sailors who have been impressed into military service from many distinct social and ethnic origins. The sailors have been drawn out from a "motley retinue" and consist of "an assortment of tribes and complexions" as to sufficiently represent "the human race" (Melville 292). Some sailors are there to escape debtor's prison or flee from acts of moral turpitude (315). Some, plausibly even Master-at-Arms Claggart, are former inmates of the Bastille prison in France, released at the onset of the French Revolution. It is rumored that Claggart volunteers his service on board the warship as part of a move that would atone for his criminal activity and help him to evade prosecution (316). To unite and subdue a crew such as this would certainly present a formidable task. Captain Vere rationalizes the urgency of the situation and the impracticality of Billy Budd's acquittal. "They would think that we flinch, that we are afraid of them - afraid of practicing a lawful rigor singularly demanded at this juncture"(364). These feelings are no doubt compounded by the recent mutiny on board "*The Nore*." Captain Vere needs to make an example of Billy Budd. In his status as an anomaly even among this diverse group, he serves the purpose of aesthetic representation. His execution provides the



expedient example of the consequences of dissension, magnified by the widespread knowledge of his innocence. If nothing else, Captain Vere solidifies a collective consensus of fear. Billy Budd, the handsome youth, becomes this aesthetic representation in his hanging and death that bears more rhetorical impact than if he had been merely an inconsequential soldier with no distinguishing features.

Certainly Billy Budd's status as an anomaly contributes to his demise. Billy Budd is out of place on board *the Bellipotent* and displays a peculiarity that is analogized to "a rustic beauty transplanted from the provinces and brought into competition with the high dames of court" (Melville 299). He is younger than most of the sailors, ignorant of his patrimony and possessing extreme good looks. He is identified in the narrative as a "cynosure" in "aspect and nature" (293). His very existence can be considered an oxymoron of sorts as he exhibits little evident intelligence, displays a considerable speech impediment, is illiterate, and yet might presumably, as witnessed in his demeanor, be of "noble descent" (300). In these aspects, Billy Budd is someone who might be easy to "essentialize" as the subtle nuances of his personality and background are unknown.

Then the issue of military law in relation to "palliating circumstances" surrounding Billy Budd's dilemma might also arise (Melville 361). Billy Budd is unable to articulate his ideas with accuracy and precision. Courts of law rely upon words in lieu of eyewitness testimony. In this case, the result of the immediate act is obvious. Beyond that, a huge burden would have been placed upon articulation. A slip of the tongue, a semantically incorrect word or a provocative or meek intonation could sway perception irrevocably. Would Billy Budd have been able to lobby for his innocence effectively? Would his words have raised more questions, inculcated more individuals or revealed a conspiracy of mutiny that might have inspired others and seriously undermined the power structure? Captain Vere could not consider his own testimony beyond what he sees as his knowledge of the abstractions is practically non-existent. He is not even aware of Billy Budd's verbal challenges (349). The only point of reference he has prior to Sergeant Claggart's accusation is the incident of the swinging fist on board *The Rights of Man*. A

discursive examination of the circumstances of Sergeant Claggart's death through the filter of military law would require a rigorous scrutiny of Billy Budd's verbal challenges and a host of unknown issues. If Billy Budd's plight is already a foregone conclusion due to an "a priori" act of divine will, the matter is settled.

#### The Inspiration for Billy Budd, Sailor – The Real Life Incident On Board the *USS Somers*

The narrative of Billy Budd, Sailor, is based upon a real life event that occurred aboard the *U.S.S. Somers*, an American combat vessel on November 26, 1842. The *U.S.S. Somers* was anchored off the coast of Africa when a midshipman by the name of Philip Spencer supposedly led fifty crew members in a mutiny. The revolt was squashed and Spencer, along with two other organizers, was immediately executed (McFarland 158). The captain of the ship, Commander Slidell Mackenzie, as the fictional Captain Vere, made a swift decision regarding the incident. He held a drumhead court and coaxed his officers to agree to an expedient resolution in the subsequent hanging of the three men. Spencer, it is reported, was not allowed a brief amount of time to write a last letter to his father (158). Spencer, curiously enough, was the son of the United States Secretary of War at the time. Slidell Mackenzie, his executioner, was treated very favorably in the press. The newspaper headlines bore a distinct resemblance to Melville's fictional account: "Horrible Mutiny On Board the U.S. Brig Somers – Hanging At the Yard Arm!" And yet, according to Philip McFarland in Sea Dangers: The Affair of The Somers, the report of the incident submitted by Slidell Mackenzie indicates highly speculative circumstances regarding the guilt of the condemned men. After the mutiny, the three ringleaders were put into irons. In a separate location, and without the presence of the accused, thirteen men were interviewed regarding the incident. There was neither a review of the evidence nor a cross-examination of witnesses (McFarland 165). Furthermore, testimony was given without the benefit of an oath or any official court room protocol. What was equally significant was that, according to all reports, the climate for mutiny did not exist. There was "no disorder of a mutinous character" among the crew of the *U.S.S. Somers* in

the four days preceding the mutiny or subsequent to Spencer's confinement (165). One might speculate that this real-life situation mirrored the fictional story of Billy Budd, Sailor in its "essentialist" quality and harsh sentence in the service of military justice.

Commander Slidell Mackenzie wrote a lengthy account of the whole incident in which he explains the events leading up to the summary court martial and the subsequent executions in detail. He never wavered in support of his decision. His documented account was used in his own court martial trial for the murder of Spencer and the other naval officers in which he was convicted but somehow managed to escape the death penalty.

In his own personal account of the actual *U.S.S Somers* mutiny, Captain Mackenzie cites Article 24 of the military code of 1789 regarding "Mutiny and Sedition." In this document, the punishment is referred to in very arbitrary terms: "shall suffer such punishment as a court martial shall inflict" (Mackenzie 6). Article 13, also cited in his personal account, defines punishment in very loose terms: "he shall be punished at the discretion of a court martial" (6). Article 14 states that the offending member of the military unit may be punished "on pain of death, or such other punishment as a court martial shall inflict" (6). For Captain Vere and the real life Commander Mackenzie, any alternative recourse was not an option. For purposes of military security and stability, the affirmation guilt or innocence based upon a preponderance of the evidence, was avoided. Guilt or innocence, in this case, might have been proven to be highly subjective. Rather than open the debate, Captain Vere defers to faith based justifications of an "essential" state of religious mystery subject to military mandate. When the question of Billy Budd's innocence is presented, Captain Vere asserts his belief that Billy Budd's act is "a mystery of iniquity" and "a matter for theologians to discuss" (Melville 359). Yet, as Captain Vere also proclaims, to initiate this discussion is not the purpose of a military court (359). Discussion of extenuating circumstances is the sort of social interaction that must be avoided within a pluralistic military unit. Security demands the practical application of the law and the "essentializing" of moral

questions: “The prisoner’s deed”, he said, “with that alone we have to do” (359).

Herman Melville was personally connected to the case of the *USS Somers*. His cousin Guert Gasevoort had been a junior officer on board the *USS Somers* during the time of the suspected mutiny plot and the subsequent trials. He was part of the court of inquiry and was persuaded, along with the other officers, to agree to the swift execution of three sailors. Apparently the guilt he felt over his decision followed him for the rest of his life (DelBanco 298).

### The Aftermath – Poetic Congruence

One of the key aspects of Essentialism is that everything remains classified and in its place. It presents a false reality that maintains order and squelches dissension by creating and sustaining a unity of thought within a presumed cultural homogeneity. Essentialism affords no sense of individual advocacy. Quick classification and assignments of value mold the appearance of agreement, congruence and order where it may not necessarily exist. Melville’s intention, I believe, was to explicate the processes whereby this sense of congruence in an orderly, patterned society is achieved. If everything, including individual behaviors can be deemed to be self-contained and “essential” in nature and thereby constituting the substance of immediate, immutable classification, then everything can be kept in its place. The type of debate, discord and volatility that ordinarily is characteristic of a pluralistic society can be obfuscated while individuality is contained within manageable parameters. In order to expose this aspect of American life, the saga of Billy Budd is rationalized with a quote from ancient Greek mythology: ““With mankind, he would say, ‘forms, measured forms, are everything; and this is the import couched in the story of Orpheus with his lyre spellbinding the wild denizens of the wood’” ( 380).

### The Legal Fiction

Primarily the justification for Billy Budd’s execution is conjured through the creation of a legal fiction. Captain Vere argues for the harshest application of military law based upon metaphysical, philosophical notions that are unable to be substantiated through corroborating evidence. Billy Budd’s

act of the swing of the fist is deemed to warrant the application of military law because it is “a matter for theologians to discuss” and a “mystery of iniquity.” The swing of the fist, thus, is designated to be an act with a self-contained judgment: unknown and unknowable. Furthermore, preceding the drumhead court martial, all legal avenues are nullified by Captain Vere. He at once proclaims judgment upon Billy Budd’s act prior to any legal process: “Fated Boy”, “Struck down by the Angel of God and yet the Angel must hang” and “The divine judgment on Ananias” (Melville 350-352). Captain Vere makes a determination that Melville chooses to represent in allusions to the Calvinist notion of pre-destined, divine (moral) necessity evident as revelation in signs and symbols with empirical significance. The swing of the fist is the sign of a non-negotiable reality. The subsequent process is indelibly tainted by Captain Vere’s forgone conclusion in the matter.

A legal fiction is also created within a separate context. The judgment influences the rhetoric of legality and public policy. The saga of Billy Budd takes on a poetic quality that converts empirical events into aesthetic representation which carries into posterity:

On the tenth of last month a deplorable occurrence took place on board H.M.S. *Bellipotent*. John Claggart, the ships’s master-at-arms, discovering that some sort of plot was incipient among an inferior section of the ship’s company, and that the ringleader was one William Budd; he Claggart, in the act of arraigning the man before the Captain, was vindictively stabbed to the heart by the suddenly drawn sheath knife of Budd. (Melville 382)

Billy Budd, in the epic format of the official summary report, is affirmed to be an enemy of the state but not as an agent of individual transgression. He is identified as acting not through some sort of cause and effect venue but as someone perpetrating harm in the capacity of his essence – his “essential,” self-contained classification. He is “no Englishman.” No motive for the murder is given. For public consumption, Billy Budd is affirmed as a criminal – one of the degenerate members of society who meets his deserved fate. The “crime” is narrated in the news reports as something “essential” as it

has no motive. Also, it is an act that “no Englishman” would perform, but since this man was “no Englishman,” he plotted mutiny (383). The act of punching Sergeant Claggart is described as a blind-side attack with a knife. It is deemed not as an act of human frailty or the result of a reckless impulse. The whole dynamic is presented in “essential” terms. The enemy (not a native citizen) launches an attack for no other reason than that depravity is “essential” to his nature. The depraved man is quickly censured and executed, thereby restoring order. The official report reads as follows: “The assassin was no Englishman, but one of those aliens adopting English cognomens whom the present extraordinary necessities of the service have caused to be admitted into it in considerable numbers” (Melville 383). A binary is established that is clearly Calvinistic in form. Billy Budd, “no Englishman,” is the degenerate violator. Claggart, the victim of this attempt to disrupt the natural order, is the good guy. The foreigner – not one of the elect - is punished for his efforts and God’s natural, “essential” state is restored to its previous stasis. Claggart, in the official record, is deemed to be a “patriot” while Billy Budd is affirmed as the threatening anomaly. No doubt, in this case, “patriotism” “is the last refuge of the scoundrel” (383).

In light of the fact that the reader is most likely to accept that Billy Budd is truly good and innocent, Melville perhaps uses this approach to reveal the disingenuousness of legal systems that misrepresent the facts and do so within the sanctions of legal process and feigned equity and fairness by “essentializing” persons and events in order to create legal fictions. In turn, by framing the swing of the fist within the context of revelation and divine providence, Melville is alluding to the Calvinistic concept of moral necessity in Predestination as a metaphor for “essentialism” in military justice. Furthermore, in staging the course of events to unfold in this manner in Billy Budd, Sailor, Melville is perhaps accentuating the disjunction between assumptions regarding individual advocacy and fairness in the law and the reality that considers legal scrutiny and judgment as merely occasions for farcical process. The farcical nature is made evident in Billy Budd, Sailor, as legal determination is presented as a foregone conclusion and process as merely staged. In turn, through this allusion to Calvinistic principles in the

legal strategy of Captain Vere, Melville is perhaps attributing the circularity in military law to this influence of divine or faith based law and cultural Essentialism as key aspects of governmental operations, thus rendering democratic process, as in large part, illusion.

## Chapter 2

Herman Wouk's The Caine Mutiny: Essentialism, Calvinism and The Insanity Notion as a Legal Fiction

In my discussion of military justice in Herman Melville's novella Billy Budd, Sailor, I examined aspects of Essentialism in American military judicial procedure in times of war. These aspects of Essentialism were represented through allusions to the Calvinistic belief in the revelation of self-contained truths in physical signs as symbolic of inevitable, immutable states. In the particular situation on board *The Bellipotent*, judicial procedure was depicted through a scenario that represented "Essentialist" thinking as framed around an "intuitional surmise," an individual plan to pre-destine events, and the promotion of superficial physical signs as evidence of divine revelation. Through this process, an individual act was molded as self-contained truth or judgment. Truth was deemed to be contained in the essence of the swing of the fist considered as an act that held a self-contained judgment – a foregone conclusion. This "truth" led to the death of an innocent man.

In this chapter, I examine a situation that reveals a progression from Calvinistic allusions to revelation and Predestination, and the "Essentialist" thinking that considers individual acts within momentary situations as self-contained, immutable truths. As I demonstrate in my investigation of the next book, Herman Wouk's The Caine Mutiny, there is a progression and refinement in the use of "Essentialist" ideas that moves beyond the interpretation of momentary symbols and into the projection of abstract, long term immutable states. In The Caine Mutiny, this abstraction is the insanity notion. The insanity notion is used as an "essential" classification. It is determined to be a state that is a self-contained, immutable and almost "a priori" based upon unqualified, superficial information. The insinuation of a Naval ship commander's insanity functions in the role of metonymy for a multitude of unknowns and aids in the task of conflict resolution while securing military power structures. Through



this “essentialist” treatment of information, judicial procedure is used to construct a legal fiction that neutralizes a volatile situation, reinforces the viability of institutional processes and preserves order. This manner of identifying and classifying permanent, almost “a priori” states of insanity, I argue, can be traced back to its origins with an early Calvinist minister. In turn, the “essentialist” approach in the initial inquiry and judicial procedure that constructs the insanity notion draws its origins from Calvinist cultural influences. I look at the manner in which information is treated with this Calvinistic sense of a belief in the validity of revelation contained in symbolic, cursory information that is used to attribute superficial characteristics as elements classifying immutable, self-contained essences. In this process, meaning is assigned while variances and discrepancies are ignored. I explore the treatment of the insanity notion itself in The Caine Mutiny that is juxtaposed with an anti-social component, character flaws and sense of “innate depravity” in “a priori” states that reflects upon early American Puritan Calvinist constructions of insanity. I also look at the nature of the legal insanity definitions in the United States and how its modern criteria can be traced back to early American Puritan Calvinist understandings of insanity. Primarily, the process that is revealed as “essentialist” in The Caine Mutiny is depicted through a Calvinistic treatment of the insanity notion in an attempt to show how military judicial procedure in wartime functions as a process of patronage to inevitable states while bypassing discursive scrutiny.

### The Story – Mutiny On Board *The Caine*

In Herman Wouk’s World War II maritime novel The Caine Mutiny, a mutiny of sorts occurs on board the *U.S.S. Caine*. It is nothing particularly dramatic. Absent is the violent outbreak instigated by some formal plot. The case entails an incipient, subtle conspiracy that is spawned from within the privileged dialogue of two men, Chief Executive Officer Steven Maryk and First Lieutenant Thomas Keefer. The object of this subtle insipient speculation is a peculiar and marginal officer of the United States Navy who has command of a Naval ship in wartime – Captain Philip Francis Queeg. The

confrontation occurs on one evening in December. The *U.S.S Caine* is offshore somewhere in the South Pacific and finds itself caught in the middle of a typhoon. The executive officer, Maryk, after accumulating a host of apprehensions regarding Captain Queeg from observations of previous behaviors and under the ill-advised counsel of his confidant Lieutenant Keefer, observes a command decision, questions it and then directly opposes it leading up to his invocation of Articles 184, 185 and 186 of Navy Regulations that cite justifications and procedures for relieving a captain from duty. The primary justification for his actions stems from his belief that Captain Queeg is insane and incapable of rational decision making. The dispute evolves from the ship's initial predicament in the midst of the storm. Captain Queeg orders helmsman and Gunner's Mate Stilwell to turn the rudder left 180 degrees which would point the ship away from the wind but moving with it. Officer Maryk believes that the ship should be turned right 180 degrees which would set it against the wind. Officer Maryk believes that the ship is about to capsize. The incident culminates in Officer Maryk's assumption of command of the ship with the words "Captain, I'm sorry sir, you're a sick man. I am temporarily relieving you of this ship under Article 184 of Navy Regulations" (Wouk 368). Of course Captain Queeg adamantly resists and promises a court martial for Maryk. My argument focuses on the actual court martial procedure and the techniques employed by the defense council Barney Greenwald in conjunction with the prerequisite scenario. Initial conjectures by Lieutenant Keefer and his "essentialist" thinking influence Executive Officer Maryk and play an important role in instigating the events leading up to Captain Queeg's relief from duty. In turn, this "essentialist" thinking guides the course of the legal proceedings and ultimately forges a judicial resolution for the military unit. (Ironically, the *USS Caine* was a minesweeper and the primary purpose during its missions in the Pacific Theater was to diffuse volatile situations.)

Plot

In the beginning of the novel, as the men are boarding the *USS Caine* due to embark, Thomas Keefer makes a revealing comment regarding his world view: “I’m interested in essences, not accidents. The nub of the Pacific war is the duel of flying machines. Everything else is as routine as the work of milkmen and filing clerks. War is ninety-nine percent routine – routine that trained monkeys could perform” (Wouk 97). In this passage he affirms his faith in “essence” – self-contained realities - and information gained through intuitive apprehension that escapes the need for explanation. This textual evidence appears compatible with the basic premise for various definitions of Essentialism and the belief that things and people possess essences – self-contained aspects of their being in physical signs or behavioral markers that identify them as belonging to a category. Lieutenant Keefer’s comment speaks to his belief that people act in predictable ways based on self-contained “essences,” and that the military unit relies upon the validity of this information. This passage also alludes to the possibility that Thomas Keefer ascribes to the view that the world functions on suppositions and insinuated information that order exists, power structures are in place and people are acting in predictable ways according to the dictates of their essences – innate, immutable tendencies. The logic might be that if order is maintained in this fashion, then disorder must be neutralized and reconciled in the same manner and from within the same “essentialist” processes of information management. Therefore, his statements appear to introduce the premise for “essentialist” thinking in the novel. He then extrapolates on the value and functionality of symbols in American society: “The world is an endless treasury of symbols, that’s grade school theology” (99). Harding replies, “you can go on spinning those symbols forever and one’s as good as another”. Keefer answers, “The test of the validity of any symbol is the extent to which it’s rooted in reality” (99). Of course, Keefer proves his own assertions to be incorrect as the plot develops. The unqualified symbolism behind Captain Queeg’s supposed insanity is enough to create a

legal fiction and provide a justification for an acquittal of a charge of “conduct to prejudice the good order and discipline.”

What connects Essentialist thinking to religion is a key point in the conversation in which the two men discuss the symbolism behind the names of the two ships *The Caine* and *The Abel*. The names are symbolic knowledge that assumes meaning only to those who are familiar with the story. This biblical allusion contains some “essential” information as the names refer to characters in the Bible. Aside from cursory knowledge of the existence of the characters in biblical narrative, however, meaning is contingent upon interpretation and the degree of study and understanding involved. The biblical story is about a man named Cain who kills his brother Abel and then lies about it. God catches him in the lie and marks him with a yellow symbol. Some might interpret the yellow mark to signify damnation or condemnation while others might interpret the symbol to signify God’s protection from the world’s judgment. What is relevant to this military narrative is the manner in which the power of suggestion and symbolic knowledge is used. The connection between this biblical story and Captain Queeg having also been given a yellow mark – he is nicknamed “Old Yellowstain” - is identified by Frank Ardolino in “Herman Wouk’s The Caine Mutiny.” This label of “old yellowstain” is invoked in reference to the time Captain Queeg cast yellow die markers and then ordered the ship to retreat rather than face combat. The reference to the biblical story foreshadows the reality that Captain Queeg’s insanity will be considered as fixed and closed to discursive scrutiny in much the same manner as a Calvinist would consider biblical information as literal and not interpretive. The two self-contained symbols of knowledge function as an umbrella classification for multitudes of unknown and unqualified information. In this passage, the men also debate the abstract, unqualified information contained in allusion and representation and consider how ideas have viability in the absence of complete meaning and based upon supposition alone. The Judeo-Christian belief in man’s condemned state is also mentioned– “Then we’re all outcasts for our sins,” Willie Keith states (99). Ironically, Keefer states that

“sin is relative to character,” which suggests a limitation upon behavior modification and a Calvinistic notion that sin is the result of an innate, self-contained state of being that is immutable. He then states, “It’s hard to know what would be sin in a born degenerate” (99). This statement alludes to the Calvinistic notion of innate depravity and pre-destined damnation. A born degenerate possesses a self-contained essence that will heavily influence all decision making processes and courses of action. Thus, on the unqualified suppositions of that belief system, much can be taken on faith in pre-destined, innate states of depravity. As will later be revealed, this line of thinking guides the consideration of symbolism in the insanity notion as revelatory of an immutable state and as such, viable legal proof. Certainly this passage appears to suggest a connection between Essentialism and Calvinism that might be operative within the narrative.

#### An “Essentialist” Diagnosis

Lieutenant Thomas Keefer offers a proposal regarding Captain Queeg that introduces intuitive knowledge into the military dynamic on board ship and exhibits “essentialist” thinking. He concludes, “I’m no psychiatrist, but I’ve read a lot. I can give you a diagnosis of Queeg. It’s the clearest picture I’ve ever seen of a psychopathic personality. He’s a paranoid with an obsessive-compulsive syndrome. I’ll bet a clinical examination would back me up a hundred per cent” (Wouk 285). His unqualified information based upon personal study is something he believes merits legitimacy and justification on par with a clinical type diagnosis. As the narrative progresses and a trial ensues, counsel launches a defense premised upon the suggestions of Keefer’s initial idea of insanity. Ironically, when the official diagnosis is revealed through the testimony of psychiatrists, no more qualification is established than what was initially proposed in Keefer’s hunch. This intrigue suggests that there is little difference in this judicial procedure between what is treated as empirically qualified information and what is merely “intuitional surmise.”

The Connections Between The Use of “Essentialist” Thinking in The Caine Mutiny and Billy Budd,

Sailor

What connects the military dynamic on board The Caine Mutiny to Billy Budd, Sailor, aside from the “essentialist” approach to inquiry and judicial procedure, is the manner in which an “intuitional surmise” functions to create a self-fulfilling prophecy. Captain Vere experiences an “intuitional surmise” that compels him to stage a legal inquiry in order to create a self-fulfilling prophecy and a legal fiction after hearing the mutiny accusation against Billy Budd. Thomas Keefer, the novelist, also experiences this sort of “intuitional surmise” that is the catalyst for the manipulation of events on board this World War II Navy ship. Keefer observes behaviors and decisions that he deems to be irregular to military protocol and perhaps socially offensive. He concludes, based upon superficial, incomplete information, that his commanding officer is insane. On some level, he forms the intent to pre-destine events. He is convincing enough to instigate Maryk to assume command of a military ship in wartime, based primarily on the sort of conjecture and romanticized speculation that is the content of a typical novel. From that incident of mutiny, a trial transpires in which this same “essentialist” information is used to create a legal fiction in Captain Queeg’s presumed insanity. In this case, the legal fiction leads to an acquittal of a charge “to prejudice the good order and discipline” and provides the failsafe through which to ignore a mutiny. The legal argument rests largely upon a conclusion that is founded on innuendo and suggestion based primarily upon a categorical assignment of insanity that escapes discursive scrutiny and signifies an “essential,” self-contained state. As will become evident, both Billy Budd and Captain Queeg fall victim to “essentialist” thinking in their status as social anomalies.

Herman Wouk’s Citing of *Billy Budd, Sailor* in *The Caine Mutiny*

Officer Thomas Keefer, like Captain Vere, is an “essentialist” thinker. His tools are imagination, manipulation and convolution. In this key conversation he has with Maryk, he arrives at the unqualified

conclusion that Captain Queeg's animosity for Stillwell is due to a deep seated jealousy and envy. He then assigns a classification to this unfounded personal conjecture. He calls Captain Queeg's condition "infantilism" (Wouk 289). He also refers to Herman Melville's Billy Budd, Sailor: "Ever read Billy Budd by Melville? Read it. That's the whole story. Stilwell is a symbol of all the captain's frustrations, all the things he would like to smash because he can't have them" (289). This passage is an allusion to literary scholarship, particularly, Lester H. Hunt in "Melville's Dilemma," who theorizes that Billy Budd is either a victim of envy by Sergeant Claggart or Captain Vere. This particular allusion implies a diffusion of "essentialist" thinking within Melville's text that somehow merits juxtaposition with the dynamic on board the *USS Caine*. Keefer also proposes that the saga of Billy Budd was really about "repressed desire" (289) transformed into malice, another nod to Melville scholarship perhaps in reference to Albert S. Braveman in "Melville's Billy Budd" and Eve K. Sedgwick in "Billy Budd: After the Homosexual," among others. Of course, these notions, when raised by a budding novelist who thrives upon the power of the imagination, accentuate the existence of this state of contrivance and unfounded supposition that might allude to something intrinsically contained in the psyche of the both Keefer and Captain Vere – perhaps a culturally specific way of processing knowledge. I believe Wouk's purpose in alluding to this particular aspect of Billy Budd, Sailor and scholarship on the subject is to propose the existence of a cultural Essentialism that is present in American thought processes and initiate speculation regarding the ways in which created information is treated as fact in both novels.

#### The Defense Counsel's Assessment of the Situation

In the following passage, defense attorney Barney Greenwald makes a comment that sheds light upon the unsubstantiated nature of the mutiny accusation and directs the reader to consider the unfounded nature of the insanity notion as it has been invoked by Keefer.

Well, the charge is absurd, for one thing. Making a mutiny. There's no question of force or violence or disrespect. Maryk was damned careful to stay on legal ground. He misapplied Article 184 to commit a mutinous act, but the article's there in the books. The toughest charge that could possibly stick would be conduct to the prejudice of good order and discipline. (Wouk 379)

Although he becomes the defense counsel for the Maryk, Greenwald recognizes the "essentialist" strategy that led to Captain Queeg's removal from command. The following passage focuses on the intuitive nature of knowledge management in this case.

I just don't want to defend these *Caine* people. Captain Queeg is obviously not crazy. The psychiatrist's report proves it. These fools find a paragraph in Navy Regs that gives them ideas, and they gang up on a skipper who's mean and stupid – as a lot of skippers are – and make jackasses of themselves, and put a ship out of action. (Wouk 380)

In this passage, Barney Greenwald recognizes the manner in which officers Keefer and Maryk impulsively assign an insanity classification based upon limited information – "a paragraph in Navy regs" and flimsy evidence – an approach to conflict resolution that is "essentialist" in nature. Limited information will function in the role of metonymy for a multitude of unknowns as the insanity is identified as self-contained and thus closed to discursive scrutiny. In this passage, he also recognizes the antisocial nature of Captain Queeg's demeanor as a variable in the insanity accusation – a key element that may have premised the insanity classification – an approach that is Calvinistic in nature and which will be discussed later.

#### The Process seeks an "Essentialist" Resolution - "A Sure Score"

In the initial interview, the attorney Barney Greenwald listens to Maryk's testimony and revelations of peculiar and neurotic behavior on the part of Captain Queeg. The narrative details a series



of rash disciplinary measures that include withholding drinking water for days from the crew while the ship is anchored at the equator (crew members took water anyway and were not reprimanded), depriving them of shore leave for an incident of suspected stolen fruit, perpetrating an extortion scheme involving some bootleg whiskey upon Officer Willie Keith, reprimanding midshipmen Urban in the middle of combat for a loose shirttail, and confining Gunner's Mate Second Class Stillwell to the ship for six months for reading on duty and arriving late for curfew after an unauthorized leave. Maryk's views of Captain Queeg reflect upon a cultural sense of Essentialism as he is willing to attribute a host of varying behavioral irregularities – antisocial, antagonistic, misanthropic and possibly criminal behaviors - to one encompassing, and yet unqualified, classification of mental disease. However, based upon Captain Queeg's behavior, there is nothing that would point clearly to insanity or the loss of rationality. His behavior is anti-social at best, criminal at worst. Greenwald, immediately recognizes the situation for what it is. Regardless of this understanding, he knows that the primary purpose of military justice in wartime is to seek a way to bypass discursive scrutiny of the Naval institution and in turn help his client avoid real jail time. He also wants his client to avoid any public accountability and plead guilty as any such dramatic publicity would also expose the Navy. Greenwald instructs Maryk that a guilty plea might be an option as "for the sake of a sure score, Challe might go easy" ( 383). The desire for the "sure score" points to the necessity for a foregone conclusion, a fixed reality. In addition, with this comment, Greenwald is insinuating that the primary purpose of the proceedings will be to protect the Navy from collateral damage – thus, the "sure score." The defense attorney anticipates that the trial process will inevitably bypass discursive scrutiny and initiate a patronage to whatever signification or abstraction can be latched on to or contrived. In this case, and in the absence of Maryk's guilty plea, Captain Queeg's presumed insanity will perform this role. The suggestion that the Navy would welcome an easy resolution points to the possibility that the desired legal process will be "essentialist" in nature as it will seek legal classification and judicial resolution based upon any supposition that can be manipulated to

appear as fact and stand in proxy for fact. This aspect alone alludes to this Calvinistic belief in the power of revelation, abstract symbolism with practical application, self-fulfilling prophecies and the power of the imagination. The Navy wants an inexorable, indisputable state above anything else in order to construct some sort of conflict resolution. A guilty plea would serve that purpose. In lieu of a guilty plea, Barney Greenwald designs this “essential” state of legal fiction around the suggestion of Captain Queeg’s insanity.

### The Trial Ensues: How the Defense Builds a Case For Insanity

Greenwald launches his defense of Maryk with a reference to Captain Queeg’s nickname on board the *Caine* – “Old Yellowstain” – meaning yellow for cowardice (Wouk 417). The title is founded upon a verbal signification of Captain Queeg’s habit of ordering the dropping of yellow die markers near enemy ships and then ordering a retreat. The term “Old Yellowstain” becomes the verbal and visual reference point for Captain Queeg’s flawed state that progresses to innate insanity. Since the notion of cowardice has been established as the operating premise, all other dialectical arguments have been closed from consideration. The cowardice becomes the linear focus – the legal agenda. From that moment in which the defense attorney makes his reference to “Old Yellowstain,” the proceedings are viewed and analyzed through the context of Captain Queeg’s cowardice.

To that end, Greenwald makes a point of avoiding any discursive analysis of the insanity question. In terms of avoiding discursive analysis, he gets no resistance from the Navy prosecutor. Instead he proceeds unimpeded in his attempt to establish recurring patterns of cowardice and strives to fashion a profile of a person with an “a priori” character flaw in which behaviors are self-contained in presentation and unaffected by outside influences. The search for patterns is “essentialist” in nature as it points to circumstances and states of being that define a person. The focus on patterns of behaviors

ignores the differences and the digressions from regular patterns that might equally influence a person's character and action. To that aim, attorney Barney Greenwald elicits the following:

Lieutenant Willie Keith testifies that on the night of the typhoon, December 18<sup>th</sup>, Captain Queeg exhibited peculiar behaviors. When summoned to elaborate upon a set of circumstances leading up to the mutiny, Keith admits that his dislike of Queeg stems from his "cowardice in battle" (436), thus testifying to a regular and habitual behavior. This incident becomes the opening through which Keith will extrapolate on this notion of cowardice in Queeg. Keith recalls the incident in which the Saipan shore battery was firing upon the American ship, the *U.S.S. Stanfield*. Commander Queeg, instead of sending *The Caine* to advance and fire upon the Japanese on the shore, orders a retreat (437). (It is later revealed in the narrative that firing upon the shore from that distance would have been futile anyway.) Keith also testifies to witnessing Captain Queeg's habitual practice of hiding on the aft side of the ship out of the line of fire during battles and other such military confrontations. What is significant is that at no point during the proceedings is any act of cowardice analyzed contextually according to an interpretive understanding of events. There is no cross-examination that seeks to undermine the contention that Captain Queeg suffers from an innate state confirmed in habitual cowardly behaviors. Thus, all the incidents are laid out within the legal forum as attributed to the self-contained aspect of Captain Queeg's cowardice. The goal is to establish Captain Queeg as cowardly in all situations and ultimately insane in all situations – with the intention to confirm an "essential" state and one that is beyond scope of legal discourse or remedy.

The prosecution is not interested in protecting Captain Queeg. They are only interested in protecting the Navy. The prosecution's main contention is that Maryk acted without authority in relieving Captain Queeg from command; however, the legal pursuit of the charge appears to have a more farcical purpose than any calculated intention. This strategy becomes perceptible in the manner in

which the Navy prosecutor Blakely addresses the issues. As Greenwald moves towards a serious character assassination of Captain Queeg, Blakely offers a lukewarm caution primarily designed to protect the Navy from cross examination: "This is a most unusual and delicate case. The honor and career of an unblemished military record of fourteen year's standing, including long combatant duty is involved. All requirements of legal ethics and military respect and subordination remain in force" (Wouk 418). Thus, in this statement, Greenwald is cautioned that he is obliged to consider the sanctity of the office of Captain on board a Naval ship and the sanctity of the institution itself more than to consider the ramifications of individual character assassination. It is the "unblemished military record" that must be protected. Captain Queeg's competency must be affirmed as consistent with the Navy's evaluation of his ability to function within the institution. If this competency cannot be verified, its absence must be attributed to some self-contained state that is beyond the scope of military institutional powers.

During the questioning on the second day of testimony, Keith testifies to Captain Queeg's cowardice as being manifested through a crippling paralysis on the night of the typhoon. He states in his testimony that Captain Queeg was "paralyzed with terror" when he issued orders regarding the ship's course (431). In the subsequent scene, Prosecutor Challee appears to be working in concert with the defense in constructing an "essential" state for Captain Queeg. The paralysis is not attributed to a particular cause but associated with a pattern of incidents that reflect more upon the crew's personal animosity and Captain Queeg's lack of social acceptability than upon any qualified assertion of cowardice. (Thus, the focus is drawn away from considerations of institutional failure in a particular instance.) In the trial proceedings, it becomes evident that notions regarding Captain Queeg's insanity are based primarily upon his antisocial, perhaps misanthropic behavior and not on any blatant displays of irrationality. Even the invocation of his cowardice in battle is juxtaposed with a certain social inadaptability. Keith states "my chief reason for disliking Captain Queeg was his cowardice in battle" (Wouk 436), whereby he is making character issues and social inadaptability as the premise for his

cowardly insanity. The issue of “dislike” should be irrelevant to establishing incompetent behavior. In Greenwald’s next statement to the court, he proposes that “things Queeg did, which caused the witness in his ignorance to dislike him, may in fact have been the helpless acts of a sick man” (436). These statements juxtapose the insanity notion with behavioral eccentricity and social inadaptability. As will later be discussed, early American Puritan Calvinists treated insanity in much the same manner.

Prosecutor Challee, in response to Keith’s testimony, affirms the “essentialist” construction of the incident with these words - “Paralyzed, yet he issued orders” (431). He was immobilized and yet took a decisive action; one cannot act decisively in a state of immobilization unless his immobilizing cowardice is a natural, self-contained state – an essence. Therefore, this probing appeal for confirmation on the part of Prosecutor Challee alludes to a sense that Captain Queeg was being guided by his innate compunction for cowardice, and yet, because it was natural to him, he was still functional – able to think. Thus, Captain Queeg’s fearful paralysis suggests not a momentary loss of personal autonomy but an intrinsic one. The scene conjures this cultural allusion to a Calvinistic belief in Predestination and fated states of being and the sense that certain essences are without remedy. Additionally, the notion that Captain Queeg became “paralyzed with terror” suggests that he was obeying something inside himself that was beyond his control – an “essence” or something that remained unaffected by empirical circumstances – what Calvinist Jonathan Edwards refers to as “the dominance of the strongest motive.” This moment of paralyzing fear itself functions as a signification – an imagistic point of reference through which to classify innate insanity. Momentary, spontaneous paralysis serves to affirm this intrinsic state of cowardice as a manifestation of mental illness that will later be revealed as a culmination of a series of unfavorable life circumstances.

The courtroom dialogue directed by the defense imputes Captain Queeg’s insanity to a controlled form of metaphysical powerlessness (“dominance of the strongest motive”). Captain Queeg’s

dilemma is not a momentary manifestation of derangement, anger or a loss of judgment born of emotion driven impetuosity. His presumed irrationality is depicted as something much more innate, abstract and long term. When questioned as to whether Captain Queeg became momentarily insane as a result of Maryk's assumption of command and thereby displayed visible agitation, Willie Keith answers as such: "The Captain was never wild or raving, either before or after being relieved. There are other forms of mental illness" (Wouk 431).

This courtroom presentation of insanity as a state of sublime powerlessness over one's own inclinations bears a cultural allusion to Puritan Calvinism. Jonathan Edwards, in his sermon "Sinners in The Hands of An Angry God" (1741), refers repeatedly to circumstances in which God will take physical control of his human subjects while they are on earth and govern their movements. He refers to those not deemed with divine grace as liable to be struck down by divine forces as they are walking, or to become overwhelmed with apoplexy or any forms of the complete loss of physical control. These sublime instances in which certain individuals might either drop dead or become completely physically and mentally powerless will be signs of God working within the physical world in materializations of pre-determined states. Furthermore, Edwards argues that these sorts of metaphysical suppositions could be validating evidence of Predestination. Physical acts can be considered as revelations of "a priori," immutable states and man's powerlessness over innate propensities (Edwards 2).

#### "Essentialist" Process of Information Management

The process in the mutiny trial itself seems "Essentialist" in nature as the dialogue places value upon superficial signification that validates an insanity classification. The line of inquiry elicits abstract meaning from superficiality that insists upon a binary assignment of meaning. The process is also "essentialist" in nature as distinctions and variations in evidentiary patterns become subsumed within a classifying rhetoric, thereby mimicking a Calvinistic binary in Predestination. Notably, it is the

prosecution at work in the following passage: The Prosecutor asks, “Did Captain Queeg show any external signs of being sick?” “Was he raving, or foaming or giving any other common indications of insanity? Did the captain act crazy? Crazy or sane, Urban” (427)? In this moment, it is clear that the occasion for discursive review has been eliminated. The prosecution has dictated the protocol for proceeding in an “essentialist” manner. All that must be proven is “crazy or sane” – a broad based classification that will serve in the proxy function for a multitude of unknowns. Thereby Greenwald understands that under this protocol, a conglomeration of unqualified information could be presented to satisfy a binary category. Therefore, he proceeds to qualify the prosecution’s binary presentation of the issue with cursory information that comes together to fashion a complete picture of a state that is self-contained and elicits a foregone conclusion. He is free to do so as the rebuttal line of questioning given by the prosecution affords no middle ground. He understands that any resolution in this case will be an affirmative one that eliminates consideration of extenuations.

With a fixed intention in mind, Greenwald moves to construct a rhetorical portrait of a man in an “a priori,” immutable state that offers no argumentative avenue of recourse. He juxtaposes this “mental illness” with other character flaws that inevitably work in cohesion to sustain a fixed state. Captain Queeg’s cowardly insanity is proposed as Greenwald cites Dr. Lundeen’s own diagnosis that describes displays of certain behavioral aspects that can be identified from within social situations: “Rigidity of personality, feelings of persecution, unreasonable suspicion, and withdrawal from reality, perfectionist anxiety, an unreal basic premise and an obsessive sense of self-righteousness” (444). This definition allows for broad based assessment and classification. Greenwald then refers to these behavioral characteristics as symptoms and “syndromes” – broad, definitive labels for ambiguous states. Dr. Lundeen suggests a “paranoid personality” (445). The word “personality” skirts the borders of character and moral fiber, and therefore Captain Queeg’s problem is imagined to be much more “essential” in nature than had been previously proposed. A personality, as an elementary aspect of a

person's psychological makeup, constitutes a more permanent element of one's being. Furthermore, having a corrupt or afflicted personality is perhaps something beyond treatment possibly because it escapes complete diagnosis and classification. Therefore, the approach is "essentialist" as it lends a singular classification to a possible multitude of variables that will not be considered in isolation. As Dr. Lundeen notes, Captain Queeg exhibits "a most convincing manner on the surface" that speaks to a deep complexity existing in insanity classifications that need not be qualified (446). His words are "essentialist" as he attempts to subsume a multitude of plausible variables under an umbrella of superficial behaviors that are analyzed through intuitive apprehension.

Greenwald attempts to convince the jury that the psychiatric definition of a "paranoid personality," as it is culturally understood, is an "essential" classification that need not be qualified with specific stipulations. A "paranoid personality" could include a multitude of varying elements. In order to make his point, Greenwald asks all twelve jurors the same three questions to which none have the answer: "What is a paranoid personality? What is the difference between a psychoneurosis and a psychosis? Could you recognize a neurotic person as such if you encountered one (Wouk 429)? This seemingly incidental line of questioning actually gives the jury permission to apply "essentialist" thinking as it affirms that since no one is able to arrive at a specific answer, the term "paranoid personality" can legally serve as a metaphorical metonymy for multitudes of speculative unknowns. His point is perhaps that this term might be applicable within a court of law with no qualification. This line of questioning establishes the epistemological precedent for the use of the term "paranoid personality" as an "essentialist" classification.

The "Essential" classification of insanity in Captain Queeg becomes the primary epistemological strategy. The night in question becomes a mere aside to the question of Captain Queeg's character and "personality," and the almost "a priori" causes of that character. Greenwald ultimately transposes the



cowardice into an overarching component that encompasses a series of visible behaviors and environmental circumstances that work in concert to formulate a rhetorical portrait of his state of mental affliction. Towards that aim he asseverates:

Well you might say the over-all problem is one of inferiority feelings generated by an unfavorable childhood and aggravated by some adult experiences. Disturbed background, divorced parents, financial trouble, schooling problems... In general, the commander is rather troubled by his short stature, his low standing in his class and such factors. Apparently, the hazing at the academy was a scarring experience. (Wouk 441)

The term “over-all problem” points to an overarching “essence” or an inescapable failure mechanism that has acted as the catalyst for many continually developing problems. This approach is “Essentialist” in nature as it suggests that a series of circumstances and contingencies (an inescapable reality) have worked as one cohesive cause that has made Captain Queeg was he is – this aspect renders his state as an assignment of fate. Consequently, his innate insanity, as an assignment of fate, has somehow been nurtured and cultivated by his past experiences, environmental circumstances and social relationships which can all be traced back to infancy and a series of “a priori” causes and effects that are due to a pre-destined state of misfortune. This approach alludes to Calvinist Jonathan Edwards’ notion of a “chain of cause and effect” – a series of empirical circumstances set in motion by God in which the damned and the saved will be placed within environmental circumstances that will nurture one assigned state or another. Thus, if all of Queeg’s actions can be ultimately attributed to his insanity which is a manifestation of his unfavorable environmental circumstances and defective personal traits, then his state is labeled as “essential,” a self-contained aspect of his being as a person, and thus inescapable. This rhetorical approach alludes to the cultural influences of Calvinism and the notion of pre-destined, “innate depravity” as part of an “essential” state.

Greenwald's portrayal of Captain Queeg's insanity is also infused with this reiteration of his state of social inadaptability and unpopularity as somehow evidentiary of an insane state. This approach is Calvinistic in nature as early American Puritan Calvinists typically juxtaposed social deviance and civil disobedience with insanity, lack of grace and thus, eternal damnation. Greenwald contends:

The background of dislike is of the utmost consequence. The witness has confessed ignorance of medicine and psychiatry. Things Queeg did which caused the witness in his ignorance to dislike him, may in fact have been the helpless acts of a sick man. Defense will present material corroboration of all statements of the witness in this connection and will in fact show that Queeg's acts stemmed from illness. (Wouk 436)

The fact that Greenwald places the words "the background of dislike" (social inadaptability) in rhetorical symbiosis with the words "helpless acts," suggests a sense of powerlessness and a lack of personal autonomy that bears a similarity to Calvinistic views of insanity as pre-destined and evident in manifestations of uncontrollable impulses and social rejection. In conjunction with repetitive patterns and unfavorable life circumstances, this courtroom scenario paints a thorough case for a Calvinistic determination of insanity.

#### A Bad Character As Insanity with Physically Manifested Components – A Calvinistic Approach

Key to the Calvinistic nature of the insanity proposal is the manner in which Attorney Greenwald immediately moves to connect Queeg's fated background with the manifestations of a psychological state. Greenwald asks, "Do the symptoms fall into a single pattern of neurotic disturbance – a common psychiatric class" (445)? In reply, Dr. Lundeen employs an "essentialist" method of interpretation in associating Queeg's height as a componential variable affecting his mental state – his cowardice - which will become the premise for the scientific classification of mental illness (445). Ultimately, Queeg's problem is identified as a "paranoid personality that need not be disabling under most circumstances"

(445). Since his “paranoid personality” is not disabling, no decisive action need be taken. The notion of a “paranoid personality” categorizes in more “essential” terms while at the same time broadening the definition in order to create a larger ambiguity through which to shield the undesired revelation of any extenuating details regarding the inefficiency of the military unit. Part of this shield is the comment Dr. Lundeen makes noting that Captain Queeg’s condition does not require a remedy from within the legal system or the military institution. The fact that Captain Queeg’s insanity is determined to be something that does not require decisive action insinuates the impossibility of remedy in pre-destined depravity, and more clearly premises the creation of a legal fiction for the purposes of conflict management and a “sure score.” If something is created for mythological purposes, it cannot be subject to scrutiny and the laws discursive and perhaps punitive or correctional aspects.

#### Proof Of A Reference to an “A Priori” State

In the courtroom scene, it appears Greenwald is using Freudian analysis as the premise for his line of questioning of the psychiatrist Dr. Bird. He proceeds by referring to Dr. Lundeen’s determination that Captain Queeg is functional and his “paranoid personality” is “well compensated.” “There are disturbed people and adjusted people,” Dr. Bird states (448). Greenwald then asks “Is there a difference between compensated and adjusted” (448)? He proceeds to imply that compensation constitutes masking behavior as merely a tactic to cover up deep rooted psychological problems. To that purpose, Greenwald postulates: “Let’s say a man has some deep-seated psychological disturbance buried in his unconscious. It will drive him to do strange things and will keep him in a constant state of tension, but he’ll never know why” (448). More than Freudian analysis, however, this statement seems to point to this Calvinistic sense of man’s powerlessness and his subjectivity in relation to innate propensities. The next statement by Dr. Bird clearly establishes that Captain Queeg’s state is “a priori,” self-contained and “essential” going back to his birth: “Commander Queeg subconsciously feels that he is disliked because

he is wicked, stupid and personally insignificant. This guilt and hostility trace back to infancy” (449). If Captain Queeg has been mentally warped since infancy, then he has been living under an almost “a priori” state. What is equally peculiar is not only the Calvinistic allusion to some sort of innate depravity in Captain Queeg but the fact that Dr. Bird admits in open court that his findings are mere conjecture: “Without an extensive analysis I could not describe it accurately” (449). His assignment of “a priori” mental disturbance is based merely upon his cursory knowledge of the facts and his momentary perusal of the situation. Thus, he uses an “essentialist” approach to psychiatric diagnosis. His classification of a personality disorder as an aspect of mental disease has been determined based upon ambiguous assumptions predicated on superficial evidence.

#### Information to Consider In Relation to Barney Greenwald’s Strategy

Jonathan Edwards, an early American Puritan Calvinist, interpreted “divine necessity” as something all human behaviors are subject too. Human nature is a consequence of physical and moral traits assigned by God at the beginning of time. The control of the will by these intrinsic and inalterable traits is complete and irreversible ( Edwards in Owen-Aldridge 82). His argument for “divine necessity” is based upon three concepts: “dominance of the strongest motive,” “the chain of cause and effect” and “the distinction between natural and moral necessity” (Edwards qtd. in Owen-Aldridge 82). Every individual action is governed by the individual’s strongest inclination - “dominance of the strongest motive,” and every individual act is part of a larger interconnectivity within divine will that controls every other occurrence within the universe (83) – “the chain of cause and effect.” The distinction between moral necessity and natural necessity is developed from the basic idea that there are laws of nature put in place by God – empirical patterns and environmental conditions that man cannot alter. “Natural necessity” encompasses all the laws of nature to include environmental circumstances and empirical patterns. Human behaviors fall into the category of “moral necessity,” which stems from

another set of pre-determined patterns occurring within the laws of nature. In the concept of “moral necessity,” all good or evil actions are governed not through free choice but through intrinsic inclinations that guide all actions on an unconscious level (85).

Greenwald has perhaps, unwittingly, addressed “the dominance of the strongest motive” in the patterns of cowardice assessed from within the context of dislike by the crew, the personality defects and the depraved background – all of which work in conjunction to establish a sense of “moral necessity” in the notion of insanity which exemplifies “a chain of cause and effect” at work. Consistent with the Calvinistic belief in revelation present in symbolism and intuitive knowledge through superficial physical signs, Captain Queeg’s insanity is qualified based upon superficial, significations in the nickname “Old Yellowstain,” his state of social inadaptability and his unfortunate background. The intention on the part of the defense is to employ symbolism for practical purposes and to attach real world significance to its meaning. With this intention, the rolling of the two marbles represents the empirical evidence of a self-contained insanity. The marbles are emblematic of this state of self-containment.

#### Symbolism For Practical Purposes – A Calvinistic Approach – The Rolling of the Marbles

Physical behaviors, as “outward tokens and manifestations,” are introduced as evidence of insanity in the courtroom. In order to proffer a visible portrait of these “outward tokens and manifestations” of Captain Queeg’s insanity for the courtroom, attorney Greenwald focuses on an act that presents as self-contained. Captain Queeg displays this curious habit of rolling two steel marbles in his hands perpetually. As the act appears random and purposeless, it is in a disjunction from cause and effect directed logic. In his interrogation of Dr. Bird, Greenwald draws attention to this habit and uses it as evidence to support the suggestion of insanity: “Doctor, did you note any peculiar habit Commander Queeg had? Something he did with his hands? Do you mean rolling the marbles? Describe the habit please. Well, it’s an incessant rolling or rattling of two marbles in his hand – either hand” (Wouk 449).

The rolling of the balls is further explained as an attempt to conceal “the inner tension” that manifests itself in trembling hands (450). It is a “surface symptom” of a general state of insanity that can ultimately be attributed to his tarnished background, warped upbringing and the series of unfavorable circumstances in life. The rolling of the balls becomes the physical evidence of this insanity – the outward signs of Captain Queeg’s assigned depravity. If something is considered as “essential,” then the meaning is self-contained and self-evident. Meaning is representative and not discursive. The two steel balls rolling within Captain Queeg’s hand denote “essential” knowledge that is self-contained much as a religious symbol or statue. The details are not immediately evident. The information is accepted upon faith and at face value as representative of a multitude of unknown details. In being discussed within the context of an evidentiary symbol, the rolling of the two steel balls implies this belief in the abstract meaning behind signs and symbols as revelations of fixed states and the aspect that superficial realities are manifestations of profound meaning. Greenwald’s strategy alludes to Calvinistic influences as he asks the participants in this Naval trial to accept outward signs as proof of self-contained and “essential” truths. The two steel balls are to be considered as proof of insanity in a self-contained, superficial physical sign that is revelatory in nature. Furthermore, the reasons the psychiatrist, Dr. Bird, offers to explain the practice of rolling the steel balls, are speculative in nature and untested by discursive scrutiny. He says, “The inner tension, it’s one of the surface symptoms” (450). He then admits that the assessment he is making is based mainly upon the “symbolism” of the act as he has not been able to conduct a full study of the subject (450). “Well, without analysis of the person you can only guess at the symbolism,” Dr. Bird admits (450). Thus through an allusion to pre-destined, self-contained states evinced through a superficial reality, an “essentialist” epistemological approach is exposed a viable strategy in the judicial process of this wartime military unit.

### Was Captain Queeg Insane

Captain Queeg does appear to exhibit a rational grasp of the situation pertaining to the weather conditions and the potential typhoon: Willie Keith knows from study that typhoons “rotated in opposite directions north and south of the equator, mostly happened in fall and moved northwest in a parabolic path” (Wouk 346).

This information is relevant as it sets the context through which to view the decision making process during the typhoon itself. Due to the nature of a typhoon, many procedural grey areas existed. The typical typhoon moves in a “parabolic path,” thus suggesting no clear course for avoidance. On the night in question, Queeg has the presence of mind to note the drop in barometric pressure and the changes in the wind speed and direction: “Well, the barometer’s dropped fourteen points tonight and the wind’s shifting every couple of hours to the right and it’s force seven now” (348). He also has the presence of mind to order Maryk to watch the weather changes and make notations on a “typhoon chart” (348). From that point on, he asks for periodic barometer readings. He does, however, become irrationally confused when the engines fail to produce power. He chastises Mr. Paynter of the engine room and accuses him of lying when he insists that he has in fact applied full power (354). While his handling of the situation appears rash and hostile, his response to the power failure could be attributed to a rational explanation. It is possible that Captain Queeg has merely underestimated the power of the storm.

Additionally, Captain Queeg orders the ship to follow the course of the fleet. This is a logical conclusion if you are consumed with an awareness of the obligation to obey orders, which is a typical military attitude (354). This is not necessarily an irrational decision. The fleet is heading north into the wind to refuel. The crew thinks that any refueling would be impossible under the circumstances. Still, it would not necessarily be illogical of Captain Queeg to feel obliged to pursue the course of the fleet and

position the ship on alert for potential directives. However, there was perhaps a preferable course of action. The narrator of the story notes that the ship definitely had an optimal position under the circumstances: “With its head to the wind the *Caine* rode better” (355).

During a typhoon or other strong storm, “the rudder can become useless. It works by dragging against the water through which it is passing: but if the wind is behind the ship, and blows hard enough, the water may start piling along as fast as the rudder so that there is no drag at all” (Wouk 357). The narrator then qualifies the scientific statement with speculation considering the disjunction between theory and experience:

The books say the best idea is to turn the ship’s head into the wind and sea and ride out the blow that way. But on this the authorities are not all agreed. None of the authorities have ever experienced the worst of enough typhoons to make airtight generalizations. None of the authorities are anxious to acquire the experience. (358)

Captain Queeg orders the crew to keep the ship moving in the same direction as the wind instead of “into the wind and sea.” Captain Queeg does exhibit a sense of the irrational when he insists that the depth charges be left in the ready mode in spite of the storm (360). Fortunately, they are already in the safe mode due to earlier orders of Executive Officer Steve Maryk that were carried out by Gunner’s Mate Stillwell (361). Due to this fact, Queeg accuses Stillwell of “insolence and neglect of duty,” a move that might be considered contemptible. (Certainly his attitudes are misanthropic in nature and misdirected at best.) Queeg’s outburst and order removing Stillwell from the helm are certainly manifestations of antisocial behavior and poor judgment. Insanity, in its true form, disconnected from socially offensive behavior, is another matter that is never qualified in discursive terms. Then Maryk suggests that they ballast the ship and turn into the wind (365). Maryk instructs Stillwell to reverse the rudder and make a sharp turn to the right. At the same time, he removes Captain Queeg from command



citing of Navy Regulations: “Captain, I’m sorry sir, you’re a sick man. I am temporarily relieving you of the ship, under Article 184 of Navy Regulations” (368).

At the trial, the commander of Destroyer Squadron Eight, Southard, testifies that Captain Queeg’s decision was justified as, in his opinion, the ship would ride equally well going down-wind as up wind (439). He also states that Captain Queeg’s decision to “stay on the fleet’s southerly course” is more prudent than Officer Maryk’s decision to turn north, which he deemed to be risky. Of course, under cross examination it is revealed that Southard had neither been in command of a destroyer-minesweeper nor guided a ship through a typhoon.

#### The Navy’s approach:

Did they really want to know the details and discuss the particulars within a public forum? Captain Breakstone inherits the privilege of having the mutiny case fall under his jurisdiction. He is not happy with the situation. “He could not recall a case that had unsettled and depressed him more. The inquiry had been a botch. The recommendations were stupid. The facts of the case, so far as they had been uncovered, were a hideous, tangled mess”(376).

The Navy doctor deduces that Captain Queeg’s presumed insanity is speculative at best; he attributes the antisocial behavior to the effects of being at sea for four years (387). However, in the formal process, the Navy treats Captain Queeg as a political liability. He is removed from command and sent back to the mainland for a “psychiatric checkup” (387). Thereby, it is evident that merely the suggestion of a particular reality is sufficient to warrant action that should only be qualified through substantiated fact. Notably, Greenwald recognizes gossip as the primary influence upon the decision making process as such regarding Maryk’s act to remove Captain Queeg from command: “Actually it’s better that you did it out of your own mistaken but noble judgment than that you took the psychiatric opinions of a sensitive novelist as straight dope” (386). With this comment, Greenwald is noting that he

is fully aware of the unqualified status of Captain Queeg's insanity and the currency of the "essentialist" approach to information that has guided Steven Maryk's decision making process.

In reality, the Navy document that considers the loss of rationality and the breakdown in command itself is "essentialist" in nature as one legal definition facilitates a multitude of possibilities that may be pursued in any legal venue. All conclusions in the predicate merely defer to what is contained in the subject. Article 185 reads as follows: "The conclusion to relieve his commanding officer must be one which a reasonable, prudent and experienced officer would regard as necessary from the facts thus determined to exist" (418). What is notable here is that this statement from Article 185 speaks in a circular argument. Read another way, the statement could say that we might proceed as necessary due to the facts or the facts will be evaluated as necessary in relation to good judgment. Therefore, the statement could be interpreted to say that the facts are contingent upon good judgment and good judgment is contingent upon the facts. The whole statement defers judgment to some intrinsic abstraction that is self-contained and "essential." No specific action and no specific remedy for any action are stipulated in this passage. Any legal judgment could be validated within the parameters of this sentence. Furthermore, it is a circular statement because "facts thus determined to exist" will be evaluated "as necessary," which basically means they will be evaluated from the context of a fixed state or "a priori" contingency of some unknown nature that is embedded into the law. The legal justification under these guidelines allows for "essentialist" thinking. The definitions are so broad that any variable could be used to fill in the blanks. The legal decision need not be based upon the evidence; the legal decision could be contingent upon the sense of moral judgment belonging to "a reasonable and prudent person."

### A Possible Premise for “Essentialist” Thinking and Its Real World Applications

In his Institutes of the Christian Religion, Calvin states that the select people will be placed by God within favorable circumstances on earth. Those who are not selected for salvation will be placed in unfavorable circumstances that will serve to reveal and develop their innate corruption. In Book Second, Chapter 5: “The Arguments Usually Alleged In Support of Free Will Refuted,” Calvin asserts that God sets forth the conditions that will nurture negative and positive character traits. Those who are destined for damnation will only encounter experiences that will cultivate their innate depravity. The elect, in turn, will be placed within positive conditions that will cultivate their gifts of divine grace. A leading American Calvinist, Timothy Dwight, proposes that while God does not directly alter cause and effect, he sets assigned, inescapable traits, characteristics and conditions of living that cause empirical circumstances to proceed in a certain manner (Dwight in Berk 87). In other words, “God exercises sovereignty by placing individuals in circumstances suitable or unsuitable to the growth of piety” (87). What is significant regarding this belief system is that evidence of these states is to be found in revelation as symbolism, superficial physical signs and in the reliance upon the power of the imagination. In both The Caine Mutiny and Billy Budd, Sailor, the legal process strives to affirm “essential,” states in the allusion to the immutable state of Predestination using revelation, symbolism and superficial physical evidence of “a priori” states in order to create legal fictions.

Furthermore, Calvin defines all aspects of human existence, human characteristics and traits as essential components of a pre-destined state. In Book Second: Of The Knowledge of God The Redeemer In Christ, As Manifested To The Fathers, Under the Law, and Thereafter Unto Us Under The Gospel, Chapter 3 “Everything Proceeding From the Corrupt Nature of Man Damnable,” he states that because of Adam’s fall from grace in the garden of Eden, imperfection became “essential” to man. However, as God had foreknowledge of these events, He planned accordingly by placing man in an immutable state –

thereby arguing for a state that is fixed and with no remedy other than divine grace which has also been pre-determined. According to Calvin, man lives always in a fixed and essential state (Calvin 2-6).

In Book 3, Chapter 12 of The Institutes of the Christian Religion – “The Necessity of Contemplating the Judgment-Seat of God, In Order to Be Seriously Convinced of the Doctrine of Gratuitous Justification,” Calvin discusses the concept of “divine necessity” and the reasons why humanity must submit. He speaks of human attributes and the assignment of roles on earth as part of a “heavenly tribunal” that belongs within the domain of the metaphysical (Calvin 2). All human knowledge and characteristics stem from this first premise and man does not have the autonomous ability to know himself nor control behaviors through some sense of independent rationale. Calvin quotes from 1 Corinthians 4:4 “I know nothing by myself, yet am I not hereby justified” (4). This passage contends that the individual derives identity and purpose only through divine will and from within a compunction to obey or disobey divine will. Calvin also cites a biblical passage from Ezekiel 36: 22, 32 where it is stated that all human action is a product of divine motivation and will. The cause and effect dynamic that is evaluated within ordinary human interactions that might deem some behaviors as deserving merit and others as not deserving merit is ultimately subject to a larger divine contingency (5). Actions cannot be evaluated within the parameters of human understanding. Actions can only be evaluated within the context of divine revelation and the expected human response to these revelations. Furthermore God gives reasoning ability to whom he chooses. All these aspects are part of Calvin’s concept of “divine necessity.”

Because of the nature of this theology, it allows for a mode of thinking that accepts surface conditions as signifiers of encompassing, immutable realities. I am not arguing that the beliefs themselves have directly altered thinking processes. Instead, I suggest that these notions, present within the cultural thinking, have perhaps facilitated the habitual affinity for “essential” knowledge and the

habitual propensity for organizing knowledge in “essentializing” ways. Furthermore, in the aspect that these Calvinistic allusions are used as metaphors for “essentialist” thinking, they are also reflective of an ingrained cultural method of information management.

*Why use the Insanity Notion In the Allusion to Calvinistic Principles as Metaphor for Essentialism and “Essentialist” Thinking:*

*The insanity notion, as it has been culturally regarded and diagnosed within the United States, points to the aspect that it has generally been considered as a fixed state. The following information delves into the specific reasons why the insanity notion in the United States has been constructed through “essentialist” interpretations and addresses its specific connections to Calvinism and early American Puritan Calvinism:*

#### The Connection Between Definitions of Legal Insanity, Social Deviance and Calvinism

The notion of the insanity defense itself derives its origins from a Calvinist minister and theologian of the sixteenth century, Johann Weyer. Weyer introduced the insanity defense as an alternative to superstition and witchcraft. In his book De Praestigiis Daemonum, he discusses ways to deal with people considered to be under the influence of demonic powers. Whereas former views on the subject called for more personal culpability, Weyer argued against full culpability asserting the idea that these individuals suffered from an “a priori” or essential state that forced them to live under demonic influences. It was God’s job to render moral and legal judgment on these individuals and man was to be merely a passive observer or witness to divine revelation in its many forms. “Only external things are punished among men....internal things are tested and proved” by God (Weyer 573). In the spirit of that reasoning, man does not have the mental powers to ascertain divine will and thus must serve in a judicial capacity merely as a witness. In his book, these people under demonic possession are called Lamiae (Weyer 555). They were a group of mostly women who existed in various areas around

medieval Europe. Weyer characterized them as primarily older women who were neurotic, delusional and “stupid” (555). Thus, the Lamiae were primarily social misfits. In their state as social misfits, Weyer insisted that Lamiae should be considered as victims who had not the free will to form malicious intent (556). They were born into a state of malice and perversion. Because they were born into an “essential” state of damnation, the things they did were done “involuntarily and without rational judgment and only as a result of the preceding sin” (573). As I mentioned earlier, Calvin stated in his Institutes of The Christian Religion that those who are not of the elect and devoid of the gift of divine grace lack rational judgment and reasoning ability. This bears much relevance to Weyer’s treatment of insanity and the manner in which he rationalizes certain behaviors. Weyer’s process of categorizing these women was “essentialist” in nature and an ideological extension of his belief in Predestination. Through his limited knowledge of these women as socially deviant, he constructed an immutable classification of a self-contained state using conjecture and the power of the imagination – the key tools for the Calvinist’s interpretation of signs of revelation on earth. Just as Maryk and Keefer on board the *U.S.S. Caine* used the label of insanity to classify antisocial behavior, irregularities in anticipated military protocol and the decision making process of a peculiar man, Weyer used the insanity notion as a metaphorical metonymy – a singular label through which to represent multiple individuals - in order to explain behavioral oddities in a group of women. Therefore, as insane persons were deemed as outside of the social norms, and became classified in this status under Weyer’s definition, it might be presumed that the insanity notion, as Calvinist Weyer designed it, was a rhetorical strategy of knowledge management that insisted upon a sense of cultural homogeneity formed in opposition to a binary other. By Weyer’s definition, the antisocial misfits were insane and innately so. Thus, everyone else who did not fall into this category and who was not deemed to be a social deviant was in fact sane. This notion that categories can be formed, in which large groups of people can be placed within classifying states that are immutable, suggests that

that a significant amount of cultural/social homogeneity exists. However, anything outside of this culturally/socially homogenous category can only exist in opposition.

### Legal Insanity Definitions in The United States

While the legal insanity defense is not invoked in The Caine Mutiny, the insanity notion is a key epistemological tool used to forge a judicial resolution. In any case, the notion of insanity is discussed within a legal forum. Thus, it might be relevant to address the cultural connection between early American Calvinistic notions of insanity and definitions of legal insanity within American law.

For over 100 years in the United States and England, legal insanity has been determined in courts of law through the M’Naghten Rule that originated in England during the murder trial of Daniel M’Naghten who shot and killed Edward Drummond, the Secretary to the British Prime Minister, Robert Peel while suffering from the delusion that the Pope and the English Prime Minister were plotting against him. The test was invented to prove that M’Naghten, due to mental illness, did not know the difference between right and wrong. This prevalent qualifier of legal insanity had a moral component to it. In this rule, the knowledge of right and wrong, or moral knowledge, was juxtaposed with the concept of insanity and a lack of reasoning ability. In Calvinistic thinking, moral knowledge and reasoning ability are symbiotic components of the gift of divine grace which contain synonymous meaning. In turn, as premised upon Calvin’s doctrine of Predestination, the use of the concept of “divine grace” as a larger classification for a multitude of variances and contingencies in moral states is “essentialist” in nature as it is never qualified in discursive terms. The Calvinists sought proof of divine grace in revelation as symbolism and imaginative powers were considered to contain fixed meaning. Furthermore, the classifications obfuscate the need for discursive scrutiny as the decree is absolute. Those lacking divine grace are on the opposite end of a binary and necessitating distinction just as the sane and insane would be within the criteria of this test. The M’Naghten rule was further modified to include the “irresistible

impulse test” as a qualifier of legal insanity. This test basically functions to certify that a said individual suffers from some sort of compulsive behavior that is beyond the control of the will. It alludes to this Calvinistic sense that man lacks free will in as much as he cannot control his innate compunctions. The legal guidelines for use of the test are as follows:

First...there are mental diseases which impair volition or self control, even while cognition remains relatively unimpaired; second ... the use of the M’Naghten alone results in findings that persons suffering from such diseases are not insane; third .... the law should make the insanity defense available to persons who are unable to control their actions,...(Weiner 9)

Legal insanity, under this definition, can be supported if a person acted without self-control due to an innate compunction born of a lack of free will. Also, there appears to be a rhetorical similarity between Jonathan Edward’s conception of “moral necessity” and “dominance of the strongest motive” and our modern day legal insanity rules in the United States. Both terms - the “irresistible impulse test” and Jonathan Edwards “dominance of the strongest motive” – lend a semantic qualification to the notion of an innate propensity that is uncontrollable and governed by sublime, metaphysical forces. Since its inception, the M’Naghten rule has been significantly modified and is not as readily applied; many new rules have been incorporated into the legal system to replace it. Still, I think, due to its prevalent use within the American legal system and its distinctively Calvinistic suggestions, it establishes a link between the use of the insanity notion and the ideological concepts of John Calvin in his treatise The Institutes of the Christian Religion and his ideological progenitors.

Captain Queeg’s cowardice, and the evidence of actions stemming from this cowardice, is actually being employed by Greenwald towards establishing the “dominance of the strongest motive.” Furthermore, if all of Captain Queeg’s actions can be traced back not only to his cowardice and ultimate insanity but to his environmental circumstances, could we not conclude that there is a “chain of cause



and effect” at work? The empirical conditions and environmental circumstances of Captain Queeg’s life have all worked together to reveal and nurture his innate depravity. In turn, the culturally ingrained thinking might be that God wants things to be this way and therefore it is a “moral necessity.” The notion of “moral necessity,” at least on a subconscious level, can be expedient in the task of creating legal fictions. In Billy Budd, Sailor, the notion of “moral necessity” in divine revelation is premised as the supplemental justification for the application of military law. Could Captain Queeg’s cowardice and possible insanity have been manipulated within a court of military law in order to allude to an understanding of “moral necessity” that might eliminate the need for discursive scrutiny? His family background was brought into evidence in order to establish the existence of conditions that were not only causal to his insane state and but also intrinsic to it.

Within the legal proceedings on board *The Caine*, Captain Queeg’s insanity is categorized in a manner that is consistent with actual legal insanity definitions. Abraham S. Goldstein, in The Insanity Defense, cites legal cases in which insanity is defined as a personality disorder and/or a moral deficiency. Often, any and all types of insanity are recognized under the umbrella term, “psychopathic personality” (Goldstein 60). He notes the existence of a form of circularity in this sort of definition of legal insanity as it dismisses extenuating causes that would refine meaning. The legal definition of insanity becomes an “essential” term. It works as follows: he is insane because he exhibits antisocial, eccentric and/or immoral behaviors, and in turn, he exhibits antisocial, eccentric and/or immoral behaviors because he is insane. Consequently, this definition is “essential” and circular in nature. In Captain Queeg’s case, all his actions are evaluated from the context of this “psychopathic personality” which is represented as his essence and his identity. Additionally, within the trial proceedings, Captain Queeg’s personality disorder becomes an interchangeable component of his insanity. Goldstein also stipulates that in actual legal cases, lawyers and psychiatrists treat insanity as one and the same with psychosis or personality

disorder stemming from some moral deficiency (59). Captain Queeg's insanity was premised upon his cowardice and anti-social behavior.

Jonathan Edwards commonly referred to his concept of "moral necessity" as a tool of social control. The elect, he avers, in their affinity for the good, will always act according to the law because their will is guided by the good (Edwards 16). In turn, the damned will have an affinity for evil and will be compelled to break the laws of God and society as a result of their antithetical affinity (17). Edwards states that man only chooses to the extent that he obeys his inclination or "dominance of the strongest motive" and submits unwittingly to its control. God, he says, nurtures the expression of this controlling impulse by putting certain conditions in place that draw out the expression of certain human behaviors.

If this information is taken and placed within the context of Captain Queeg's situation on board the *USS Caine*, the relationship between Calvinism and "essentialist" notions of insanity as applied to social control becomes more evident. Captain Queeg is labeled as insane primarily for not following the expected or anticipated procedures on the night of the typhoon and for being a generally disliked person. Dangerous or incorrect action on the part of Captain Queeg is never proven. His fellow officers recognize the deviation in regular behaviors and act promptly in forming an "essentialist" opinion through which to classify and manage those behaviors. An unqualified classification of insanity becomes the metaphorical metonymy for unexplored information. In turn, irregular behavior is transformed into evidence of an immutable state that interposes mental affliction, loss of reason, undesirable personality and unfavorable life circumstances, all working in a symbiotic relationship.

In The Protestant Ethic and The Spirit of Failure: Damnation and Deviance, Mordechai Rotenberg argues for a connection between the concept of insanity and Calvinistic Protestant belief. He avers that it is Calvin's theory of Predestination that has actually directed the protocol for diagnosis and treatment within the psychiatric community during the nineteenth and twentieth century (Rotenberg 2).

Psychiatrists are quick to accept certain mental afflictions as untreatable and inalterable. Often, patients and symptoms are classified in binary terms following the model of what he terms the “sick-damned” and the “healthy-elect”(2). He proclaims, “The covert belief that deviance and failure are symptoms of an innate and irreversible state of damnation is equally pervasive in Western culture since both tenets are traceable to Calvin’s influential doctrine of Predestination” (23).

Moreover, the psychiatric community has been dominated by what Rotenberg identifies as the “Calvinist damnation metaphor”(21), which has been employed as a means of social control since the earliest days of the Puritan community in America. Within Puritan communities in early America, social control was maintained through two aspects of “applied damnation” (24). First, the population was divided into binary categories according to their adherence to civil/religious rules within the theocratic government (24). Secondly, citizens were treated by others in accordance with the binary category they were placed into due to their adherence to certain rules and their general social compliance. He maintains, “Treatment of self and others as ‘hopeless damned’ [was implemented] on the basis of specific failure symptoms in ‘secular behavior’” (24).

*Captain Queeg was also deemed to be insane due to “specific failure symptoms in secular behavior” – he did not follow the expected or preferred protocol for dealing with a crisis situation and his contemporaries found his general management style to be repugnant.*

Furthermore, insanity and the loss of reason were given as the explanation for “social deviance” (33). Rotenberg goes on to stipulate that insanity and the loss of reason, in Puritan thinking, was a sign of the absence of divine grace, and therefore proof of a pre-destined eternal damnation. Consequently, the concepts of insanity and loss of reason were invoked with regularity to explain individuals who did not comply with the social, civil or cultural rules within the Puritan theocracy. Rotenberg includes an excerpt from the journal of Puritan leader Jonathan Winthrop that epitomizes this exact manner of

thinking. In this excerpt a woman is labeled as crazy because she chooses to read and write instead of clean house and do other traditionally feminine chores:

Who has fallen into a sad infirmity the loss of her understanding and reason which had been growing upon her...giving herself wholly to reading and writing and had written many books... For if she had attended her household affairs and such things as belong to women and not gone Out of her way and calling to meddle in such things as are proper for men whose minds are Stronger, etc...She had kept her wits and might have improved them usefully and honorably In the place God had set for her! (Jonathan Winthrop qtd. in Rotenberg 22)

Rotenberg identifies Calvinist language borrowed from the rhetoric of Puritan religious leaders such as Jonathan Winthrop as “the common denominator which describes the etiology of mental disorder” (33). Included in his analysis is an excerpt from a psychiatric diagnosis from 1885 which he considers to contain Calvinistic undertones: “....mass of chronic insane...comparatively few recover for the reason, chiefly, that they did not possess in the first place the conditions of recovery...How can reason and will return to those from whom it never departed” (Caplan 35 quoted in Rotenberg, 1969: 293)? The words “conditions of recovery” appear to allude to Calvin’s theory that the elect will be placed within empirical conditions that will nurture their gifts of divine grace and allow good traits to be revealed and cultivated. In turn, the damned will be placed in unfavorable conditions that will cultivate only their states of damnation. In this passage, the insane person is identified as having never had access to the “conditions of recovery.” Having never possessed reason and will, he could not have lost anything. Therefore, his insanity was an “a priori” state.

#### The Connection Between Calvinism, Modern Science and Insanity Definitions

Jonathan Edwards incorporated the empirical theories of John Locke into his writings and proposed that the scientific method and empirical patterns of nature were perfectly compatible with

Calvinist theology (Edwards in Miller 23). Although Edwards said that human reasoning power was a sure sign of God's favor, he stipulated that observations in nature and experience were the best evidence of divine will. He agreed with John Locke who said that science is really divine revelation in action. He differed from Locke, however, in his consideration of Essential knowledge and the aspect that he deemed man's place to be primarily as a passive spectator watching divine revelation and acting only when prompted by God to do so (Edwards in Miller 26). Edwards' writings, which include considerations of scientific principles, suggest an intermixing of influences between Calvinist doctrine and the beginnings of modern scientific theories. Indeed, as time progressed, a relationship between the Calvinistic notions of divine election and Charles Darwin's theories of natural selection gained widespread acceptance in the United States. Donald Meyer, in "The Dissolution of Calvinism," affirms the connection between Calvinism and Social Darwinism as a mandate for submission to an absolute state of scientific and social circumstances. This brand of social/scientific rhetoric, he states, has been repeatedly employed in the United States with the aim of social control (85). Thus, further examination of this socio/scientific rhetoric as a means of social control could be contextually applied to the process of military justice on board the *USS Caine*. In relation to this paper, this information suggests a connection between Essentialism in science and Calvinism in the aspect that scientific theory implies an absolute set of scientific and social circumstances.

Traditional conceptions of insanity, especially in the nineteenth century in the United States have always been diagnostically juxtaposed with character flaws and behaviors deemed to be socially deviant or irregular in some sense. In her article "The Paradox of Prudence: Mental Health in the Gilded Age," Barbara Sicherman discusses the psychiatric writings and practices of a nineteenth century psychiatrist, George M. Beard, noted for his Calvinist background. The premise he forwarded, and which was widely accepted during this era within a consensus of the professional community, was that the empirical world was in a fixed state and man was obliged to adjust himself from within (Beard in

Sicherman 893). Those who lacked the ability to adapt to this fixed environment were assumed to lack some innate survival mechanism. Insanity, as a form of social inadaptability, was categorized as a natural mutation and an innate deficiency. Insanity and social inadaptability were lumped together into one category defining an immutable state. Eccentricity was also considered to be evidence of mental illness (Sicherman 894). Eccentricity might constitute any behaviors that were considered extraordinary or outside of socially accepted norms and patterns. Consistent with Calvinistic thinking, the mental health professionals of the nineteenth century often assumed that sanity was a gift of grace. Those who possessed the propensity to listen to the will of God also succumbed to social propriety (894). They wanted to be sane due to the gift of divine grace and had the ability to be so through the gift of reason in divine grace because God had chosen that path for them. (They were able to adapt to this fixed environment because they were of the “saved.”) Overall, sanity was always consistently defined as a state in which a person had the compunction to stay within his or her assigned social role or station in life (898). Thus, insanity itself was an “essential” classification as opposed to a discursive issue. What is even more significant is that within the nineteenth century, diagnoses of insanity were always given in binary terms. No middle ground or varied definitions existed. One might speculate that this sort of medical categorization was more efficient as a form of social control than for the purposes of treatment or rehabilitation.

#### Modern Insanity – An Essential State of Social Maladjustment and Its Calvinistic Origins

Even within the legal community today, insanity is often viewed as an incurable and “essential” state. The legal term used in the insanity defense in the courts of law in the United States is “mental disease or defect” (Slovenko 165). The term “disease” suggests a possible cure, but an equally possible state of terminal or chronic symptoms. The term “defect” implies an even more inalterable state that might only be remedied through extreme measures. I propose that under these criteria, and in the ideas

suggested in this choice of words, legal insanity definitions are indicative of Calvinistic definitions of insanity as something “essential” and inalterable. The commonly applied insanity test in American legal jurisprudence, the M’Naughten test, states:

it must be clearly proved that at the time of the committing of the act, the party accused was laboring under such a defect of reason, from disease of the mind as not to know the nature and quality of the act he was doing, or if he did know it that he did not know he was doing wrong.

(Slovenko 166)

The term “disease of the mind” lends an “essential” quality to the definition as the word conjures a broad classification through which to mask unique distinctions and extenuating causes. Furthermore, in this statement of legal qualification, insanity is specifically defined as the absence of reasoning ability and the inability to understand or adhere to the moral rules of society. In Calvinistic thought, insanity is also identified primarily as a state in which reasoning ability, moral discernment and a propensity towards obedience are absent. In early American Puritan Calvinism, the insanity qualification was synonymous with antisocial behavior.

Ralph Slovenko cites Black’s Law Dictionary that qualifies legal insanity as a social term used to refer to any behaviors that constitute social deviance to include criminal behaviors (166). Incorporated in this legal description is the reference to legal insanity as constituting behaviors that might be considered unreliable and unpredictable. Unreliable and unpredictable behaviors are not evaluated in isolation but instead are assessed as essential component parts of legal insanity under the umbrella term of “mental illness or psychosis” (166). Under this definition, any antisocial behavior or failure to comply with social norms could plausibly be interpreted as legal insanity. The term is “essentialist” in nature as it is an umbrella term that functions in the role of a metaphorical metonymy for multiple unknowns. I want to again refer to Jonathan Winthrop’s Journal of 1645 in which he attributes

unconventional social behavior to the loss of reasoning which in Puritan thinking constituted an “essential” or “inalterable” state of damnation. A woman was placed in this state of damnation, qualified as insanity, because she refused to adhere to social norms and perform traditional social roles.

Slovenko cites Dr. Karl A. Menninger who promoted the belief that all mental illness was the same and ultimately merely varying physical manifestations of one “essential” affliction that came from one definite internal source (Menninger in Slovenko 170). This belief was widely held within the psychiatric community until the late 1960’s. The Diagnostic and Statistical Manual of Mental Disorders (1952) does not classify independent or characteristically unique mental disorders. All mental afflictions are, for diagnostic and treatment purposes, thrown into one criterion for medical protocol. Behaviors are identified merely in binary terms as either sane - manifesting reasoning abilities which constitute social compliance - or insane - which is defined through the absence of reasoning ability as identified in the lack of social compliance (170). Specifically for legal purposes, the diagnosis of mental illness had a separate function and context. It was used to identify an unwillingness to comply with the laws of society.

The modern insanity laws still exhibit traces of this antisocial component that is juxtaposed with a fixed physical state of mental disease. Under the “McDonald Law” qualifying legal insanity the following is stipulated: Insanity constitutes a “substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life” (171). What is notable is that this qualifier necessitates evidence of behavioral patterns, character and personality traits. Judgment is a social act; therefore, an incorrect judgment or an inadequate decision under these criteria might constitute a social transgression. The notion of Captain Queeg’s insanity is actualized from within this line of thinking. Primarily Keefer and Maryk attribute errors in judgment, social inadaptability and irregular behavior to insanity. Also significant is



the fact that Captain Queeg's insanity is treated as an "essence" – a self-contained phenomenon that is presented in court as a manifestation of a series of unfavorable life circumstances. Symptoms of mental disease in the McDonald Law are evaluated under this definition in "essential" terms as evidence of a fixed state of behaviors in which all elements work in cohesion. Until the mid-1970's, many states specified that mental illness could be considered as an explanation for any antisocial or unlawful behavior (171). The definitions were broad based, all-encompassing and could be applied without discursive scrutiny. Thus, by the nature of their construction, these legal insanity definitions held an "essentialist" quality.

Originally, when legal definitions of insanity began to differentiate, a psychopath was defined in *Stewart v. United States* (1954) as a person who was "'maladjusted, emotionally unstable and resentful of society," and thus unwilling to obey the law due to an "indifference to the rights of others"' (172). Mental disease was again defined as a basic lack of will to follow the law. In Calvinistic thought, a lack of will to do the right thing – defined as obeying the laws of society and the Calvinist God - meant a lack of divine grace, which consequently would become manifested through a lack of reasoning ability, (insanity) and become evidence of "eternal damnation." In early Puritan communities, the primary evidence of a "damned" person was social maladjustment. It was not until 1985 in the United States that The American Law Institute's test of criminal responsibility barred the antisocial personality qualifier from the criteria for applying the insanity defense (172).

As revealed in The Caine Mutiny in a wartime military unit, this same sort of "essentializing" rhetoric employed to the characterization of insanity became effective to the task of social/political control. As evidenced by the previous information regarding conceptions and uses of the insanity notion in the United States, it might be reasonable to presume a cultural influence was at work in the minds of Keefer and Maryk when they concluded that Captain Queeg was insane. At the very least, the insanity

notion was an expedient tool through which to censure undesirable behaviors on board ship. In the courtroom, the insanity notion functions as a strategy for institutional management. A volatile situation is neutralized as the focus on Captain Queeg's "essential" state of insanity diverts attention away from the questions regarding a mutiny of sorts and a breakdown in a military chain of command. Certainly, Greenwald's technique is effective in protecting the military from itself and masking the implications of a serious disruption in the institutional functioning. The insanity notion also draws attention away from the fact that Officer Maryk is able to remove a Captain from command without resistance, thus suggesting a widespread lack of military allegiance and loyalty to power structures. Furthermore, the notion of vulnerability within a military unit in a time of war or political strife must always be deferred to the existence of individual inadequacy and not institutional failure. It appears, as revealed in Billy Budd, Sailor and The Caine Mutiny, that the solvency of military procedures and strategic operations must never enter the discussion. The failsafe becomes Captain Queeg's individual flaws as a coward who is actually insane. This gives the United States Navy an avenue of recourse through which they can rationally explain everything that occurred without exposing weakness in the military operations themselves. In the trial's aftermath, attorney Greenwald admits to waging a sham defense by "peeling very unethically and irrelevantly to the pride of the Navy" (Wouk 483).

Furthermore, the notion of insanity proposes a binary division in which a sense of cultural homogeneity can be forged in opposition to deviance. Any binary opposition must be premised upon the notion that its opposite is indicative of some ideal homogenous state. If one person is deemed insane in his distinctness from the larger group, it must be premised upon the assumption that a general state of cultural/social homogeneity defining insanity exists in the first place. In turn, there must be a homogenous definition of sanity. If one group is believed to be largely the same in thinking processes, opinions and anticipated actions, any deviation must be in opposition – particularly if you believe in a fixed universe and a fixed human condition.

### “Objective Power” of Calvinism and Assigned Social Roles

In Max Weber’s thesis The Protestant Ethic and The Spirit of Capitalism, a connection is established between rationality, fruition of goal oriented behaviors, social roles and Calvinist doctrine. Weber discusses how divine grace – given to “elect” individuals - drives the motivations behind productive behaviors such as the accumulation of wealth through hard work (Weber 58-59, 117). Weber cites Calvin’s doctrine of “effectual calling” that not only proposes pre-destined, divinely assigned roles for humans on earth, but asserts an “essential” quality to the human condition that locks people within fixed social roles (58). Accordingly, people are born with self-contained essences or tendencies that determine their paths in life and make them what they are. Weber states that a belief in this doctrine is what encourages people to seek out certain professions and trades and generate revenue within business relationships that are cultivated over long periods of time. He also stipulates that it is Calvin’s declarations in Book 3, Chapter 5 of his Institutes of the Christian Religion that God has placed the “elect” and the “damned” within the “a priori” conditions that inspire people to embrace, or at least accept, their assigned positions in life. It is the belief in and adherence to this ideological perspective, Weber contends, that was the impetus for the Capitalist venture from its onset. The “essential” nature of Calvinism and the notion that certain people intrinsically deserve the fruits of material wealth, have given Capitalism an “objective power.” Furthermore, Capitalism has gained agency as an economic system that thrives through divine will in the gift of divine grace (Weber 58). For the purposes of this paper, I feel that it is this belief in essences and the adherence to assigned, immutable social roles that is key to the military procedures in The Caine Mutiny. It is Captain Queeg’s deviation from expected behaviors within his assigned social role that becomes the impetus for the court martial proceedings. Thomas Keefer is driven to the pseudo-mutinous act through his belief in self-contained essences and

intuitive knowledge and his sense that inclination must be brought to fruition through application. Also the notion that Captain Queeg is expected to behave in certain ways and exhibit traits of judgment that are similar to his peers, suggests the expectation of cultural/social homogeneity in thinking processes and anticipated actions. Weber's socio/economic thesis insinuates that social roles in society are predicated upon the notion of a fixed universe in which human interactions are effected by a presumed unity of thought that obliges participants to adjust from within. Furthermore, Weber's thesis argues for the power of intuitive knowledge in the aspect that he states that people willingly embrace the concept of "essences." Captain Queeg does not participate in this unity of thought, is unable to adjust from within, and thereby, falls outside the boundaries of his "proper" social role. Due to this fact, he is considered to be insane.

For the purposes of this paper, I would also like to draw a connection between this "objective power" of divine grace, rational reasoning and the concept of insanity. Donald W. Ball in "Catholics, Calvinists and Rational Control: Further Explorations of the Weberian Thesis," proposes that Weber's theory regarding the relationship between Calvinism and Capitalism is in reality less about economic relationships and more about epistemology, the concept of rational reasoning, social obedience and the maintenance of an orderly society (182-183). He believes that Weber was actually more interested in the concept of social control and government power and the manner in which Calvinism played a key role by asserting the notion of reasoning ability and self-control as a gift of divine grace (184). As discussed earlier, Calvinist theology merges the lack of reasoning ability, the lack of rational behavior, social incomppliance and insanity into one cohesive criterion through which to qualify "eternal damnation." Primarily, Captain Queeg comes under attack because his reasoning was not consistent with the regular social expectation on board this Naval ship. Because his behavior is deemed to be irrational, he falls out of the social order. The judicial procedure works to create a legal fiction around a clinical classification for this breach in expected behaviors that places him on one extreme end of a

binary – insane due to a particular self-contained essence manifested in anti-social behaviors. In placing Queeg on one extreme end of a binary other, they have forged a sense of cultural homogeneity in opposition to an irregular state, that being the phenomenon of his insanity.

#### Juxtaposing the The Caine Mutiny Dilemma With a Real Life Military Incident

The dynamic I have been discussing through Herman Wouk's portrayal of military justice in The Caine Mutiny has been shown to be evident in a real life military situation. In San Francisco, California there is an Army base known as *The Presidio*. During the 1960's this base held a stockade that housed numerous AWOL and desertion cases during the height of the Vietnam War and the draft. In addition to the significant civil unrest in the United States, there existed a formidable element of insubordination and resistance within the ranks of the military itself. On October 11, 1968 at *The Presidio* stockade, a particular incident took place. Richard Bunch, a small and skinny AWOL soldier from Ohio, attempted to leave a work detail. A prison guard shot and killed him as he was leaving the compound at a slow jog. His murder gained widespread sympathy because it was apparently known that the man was too sick and feeble to work in a military stockade. Three days after the murder, twenty-seven prisoners participated in a work-stoppage and sit-down demonstration as a way of protesting the murder of this soldier and the conditions at the Presidio stockade itself. The men were all charged with mutiny and a military trial followed.

As the military attorneys were building a defense, they focused on the background of the accused men. The goal was to retrieve a host of "essentializing" information that would excuse their behavior. What is interesting is that the information, as employed during the course of the trial, tended not to build a case for situational contingencies. The information followed a Calvinistic pattern in working to affirm an "essential" state that helped to sculpt and define the character of the men in such a way that the circumstances of their lives were presented as intrinsic to them and an ingrained part of

their characters. As the mutiny trial progressed, a tone of Essentialism suggestive of Jonathan Edwards's rhetoric that the depraved will be placed within the empirical conditions of depravity became evident in the strategy of the defense counsel.

Although it is never specifically stated, the argument is made in the Presidio Mutiny Trial that the accused men behaved in an illegal manner due to an almost "a priori" set of circumstances beyond their control. The "Presidio twenty-seven" soldiers were identified as white, working class poor who had been excluded from the fruits of Capitalist America. They were considered "transient, insecure, badly educated, emotionally hurt and poor" (Gardner 46). One of the mutinous soldiers was Alan Rupert – classified as a candidate for mental disturbance and illegal behavior because his mother was married twelve times and he had a juvenile record for running away (47). When he took the stand at his mutiny trial, he referred to a series of unfavorable circumstances: he had been a ward of the state while a teenager, his school records had been altered in error, he was eliminated from football and finally quit school which led to his ill-advised decision to volunteer for the draft (51). Thus, he was a victim of Jonathan Edwards' "chain of cause and effect."

During the trial, Reidel, one of the leaders of the mutiny, was identified as having as a "sociopathic personality," which rendered him unable to control his behavior (131). Oszepinski was also labeled a sociopath who had "an impaired capacity to form a specific intent" (131). However, no specific evidence was offered to support his "impaired capacity" other than to point to the work stoppage itself and his "essentializing" set of unfavorable life circumstances that supported a categorization. This reference to an "impaired capacity" alludes to this Calvinistic sense that all men lack free will and are merely subjects beholden to their innate propensities either for good or evil. Those who have the propensity for good (following laws of society) have reasoning ability and are deemed therefore to be

sane. Those who disobey society's laws do so because they have a propensity for evil, lack reasoning ability (a gift of divine grace) and are therefore insane.

Fred Gardner, in The Unlawful Concert: An Account of The Presidio Mutiny Case, notes that military courts differ from civilian courts in that they only have to prove "an inability to adhere to the right" (132). A military court procedure treats this inability to follow the law in more "essential" terms rather than from within the context of any momentary perception and the contingency of "diminished capacity" at a particular moment in time (132).

This culmination of a series of unfavorable circumstances in the lives of the men will progress to an invocation of the insanity defense just as in Herman Wouk's The Caine Mutiny. A passage from the trial transcript of the Presidio Mutiny Trial reads as follows: "A general told me there should be no court-martial because the psychiatric evaluation on this man is bad" (Gardner 129). During the course of the trial, the insanity defense is invoked numerous times in which the legal counsel uses the "irresistible impulse test" as a qualifier (189). As I stated earlier, the "irresistible impulse test" bears a rhetorical similarity to Jonathan Edwards's concept of "the dominance of the strongest motive." The behavior of the twenty-seven men on the morning of October 14, 1968, it is argued, should be excused due to the fact that the men felt an "irresistible impulse" to protest the killing of a fellow soldier (Gardner 180). Because the accused men were victims of the "dominance of the strongest motive," they were unable to form a specific intent (194). This condition, during the legal proceedings, is then identified as a form of insanity: "His condition at that time, his inability to weigh the pros and cons so that his action would be the product of a reasoning mind, I would say that his state of mind was so severely impaired that one might say he had no capacity to form a specific intent" (194). This inability to form a specific intent is later transposed into a "mass psychotic reaction" (195). In the final hours of the trial, the concept of group psychosis is juxtaposed with the aspect of the similar backgrounds and the degenerate status that

the men held in common: “I was struck by their similar backgrounds. They are all white. They have low self-esteem. Very few had ever felt themselves the object of concern and care. They have always fled when anxiety threatens” (195). (The words “they have always fled when anxiety threatens” invoke a recollection of a page from The Caine Mutiny trial highlighting Captain Queeg’s cowardice.) From that context of habitual behaviors, the “essentialist” profiling of the men develops into a subtle reference to Social Darwinism. Social Darwinism is a theory that proposes that those who are created with traits not conducive to survival will exhibit behavioral manifestations of this intrinsic state of inadaptability. African Americans in the United States, for example, have traditionally been discriminated against and categorized according to this “essential” theoretical model that proposes that they are anthropologically and sociologically different because of some genetic or otherwise “a priori” reason. The following final transcript from the Presidio Mutiny Trial reads as follows:

They responded as black people and sang ‘We shall overcome’ a song they hardly knew. The other side of grief is rage and they stopped one step short of rage. They weren’t thinking about the consequences. It was unpremeditated and they didn’t have the ability to form an intent.  
(196)

The main issue, the almost execution style gunning down of soldier in the United States Army without just cause, is avoided. Through the legal strategy of classifying the men as acting within the conditions of their immutable, intrinsic state of social inadaptability and mental disease, a legal fiction based upon cultural mythologies is created that forges a resolution. Any discursive process that would examine the causes and effects of the situational dynamics leading up to the shooting are avoided. Any discussion of a possible justification for the actions of the men in mutinous protest is circumvented. Furthermore, the “essential” nature of the statement suggests a circular argument. All causes and effects are deemed to be inconsequential on an incidental basis. All causes and effects are deemed to be contingent upon an



“a priori” or previous set of circumstances that constitute genetic makeup, environmental circumstances and moral character as working simultaneously under the directive of one cause. The use of this line of reasoning in military justice that neutralizes behaviors based upon superficial classifications and avoids discursive investigation is contrary to a democratic notion of justice that advocates for the rights of the individual. The idea of individual rights is one that suggests uniqueness in behaviors and character and a measure of control over actions. If the individual has rights, he or she has a voice and the license to lobby for a particular perspective and a unique privilege to justify behaviors, modify behaviors, prove innocence or reform and atone. In this particular situation, the accused men are placed within a binary opposition to a homogenous state. Their criminal culpability is attributed to their status in being outside of the social/cultural norms as mentally depraved. Thus, the right of the individual to dissent from the opinion of the dominant, presumptively homogenous order is eliminated. The justice system, in this case, is indicative of an “essentialist” process which eliminates the occasion for discursive review and submerges individual rights underneath a culturally homogenous system of knowledge management.

In the fictional account in The Caine Mutiny, governmental control is maintained while the individual voice is silenced through the creation of a legal fiction in Captain Queeg’s “essential” state of insanity and its Calvinistic allusion to insanity as an outward manifestation of social inadaptability and thus pre-destined depravity. Captain Queeg’s behaviors are deemed to be insane due to their incompatibility with the reasoning of the other officers on board the *U.S.S. Caine*. And consequently, the cultural significance of this approach is manifested in the evidence of the effectiveness of this legal strategy. Maryk is acquitted and escapes the death penalty even though his military career is finished. This aspect is significant because it points to the lack of a real personal acquittal. The Navy as an institution is acquitted in a sense – exonerated from institutional weakness and culpability. A multitude of contingencies and extenuations regarding this dynamic of military order during wartime on board an American Naval ship is avoided. And yet it is a conflicted, half-hearted victory on the part of Barney

Greenwald. Greenwald is not satisfied with the moral nature of his efforts. Perhaps his ultimate personal chastisement is an acknowledgment of his distaste for the Calvinistic Essentialism he has been employing throughout the course of the courtroom drama. When ardently commended for his legal magic, Greenwald only confesses his feelings of disloyalty to Captain Queeg as a representative of the forces fighting Hitler: "See, the Germans aren't kidding about the Jews. They're cooking us down to soap over there. They think we're vermin and should be 'sterminated and our corpses turned into something useful," he states (Wouk 481). The relevance of this invocation at the end of the trial is to highlight the duality and hypocrisy of the legal proceedings. Greenwald is, of course, referring to the Holocaust and the summary execution of six million Jewish people living in Europe during World War II. The primary justification for the executions was "essentialist" in nature. People were sent into ovens for the sole reason that they were of Jewish descent. Nevertheless, in the trial proceedings in The Caine Mutiny, the litigator employs a strategy of the enemy that is antithetical to the spirit of democracy. He uses an "essentialist" legal strategy in order to secure an acquittal that should have been obtained through a discursive process. In using an "essentialist" strategy in order to win his case, he becomes a traitor to democratic process and, ironically, in the aftermath, none of the military men fighting for democratic truth and justice, in his present company, seem to recognize or understand the discrepancy.

### Chapter 3

#### Aaron Sorkin's A Few Good Men, Institutional Essentialism and Allusions To "Supernatural Rationalism"

In the previous chapters, I discussed the ways in which "essentialist" strategies in military justice were depicted through Calvinistic allusion as metaphor. As a consequence of these "essentialist" strategies, legal fictions were created that allowed for the obfuscation of democratic process and suggested faith based principles as legal guidelines. In The Caine Mutiny the "essentialist" strategy was depicted through a treatment of the insanity notion as considered in the context of inevitable and immutable states – an allusion to John Calvin's doctrine of Predestination. This dynamic was observed in a World War II novel of military justice. Now I would like to move further towards the examination of an "essentialist" strategy that exhibits a progression and a refinement from singular occasions of military incident. The following chapter studies Aaron Sorkin's play A Few Good Men and critiques an Essentialism that is institutional, all encompassing, and holds broad based relevance for the execution of military procedures. In order to scrutinize the existence of institutional Essentialism in military justice, Sorkin alludes to the juxtaposition of faith based concepts with institutional policy. Early American Puritan Calvinist Timothy Dwight was known for his tactic of merging faith based concepts with politics in early America with a specific focus on institutional policy and bureaucratic functioning. Dwight's theory of "supernatural rationalism," which he often promoted in his political speeches and sermons, explains his unique version of Calvinist doctrine. Within the context of institutional policy and bureaucratic functioning, Dwight's "essentialist" notions, evoked through Puritan Calvinist ideas, openly promoted a cultural homogeneity within the early American nation – a cultural homogeneity of allegiance under Puritan Calvinism. In A Few Good Men, Sorkin alludes to Dwight's Calvinistic political rhetoric as metaphor for an Essentialism that is institutionally based. In Sorkin's play as in Dwight's vision, ideology and theology become merged with daily military operations, decision making processes

and behavioral patterns of a military unit. The literary scenario no longer deals with incidental and occasional moments or immutable states of social inadaptability in the insanity notion, but instead critiques the construction and maintenance of military lifestyles through ideological directive that is metaphorically depicted in theological allusion. In A Few Good Men, this ideological directive is found in an unwritten code of conduct that is accepted and disseminated through an implied understanding of intuitive knowledge. In this tale of military justice, this intuitive knowledge in an unwritten code is unveiled as theologically grounded and yet gains legal currency. Thus, the “code red” as it is called, becomes a legal fiction.

### The Plot

The scenario for this ideological premise is a United States Marine base in Guantanamo Bay, Cuba. The soldiers share a border with their sworn Cuban Communist enemies who might launch an offensive attack within a moment’s notice. The unit has one soldier who is unable to adjust to life in the United States Marine Corp due primarily to a physical and emotional unsuitability for military rigor. The men in his unit have been instructed that he is to be considered as a primary target of group discipline. This group discipline, which is regularly practiced on deficient soldiers, constitutes hazing style acts to be implemented when any such evidence of inadaptability manifests itself in behaviors exposing weakness or vulnerability of any sort. The subject in question, one Private William Santiago, after having become a target of disciplinary scrutiny, had written repeatedly to his hometown Senator pleading for a transfer or some sort of reprieve. His letters cited incidents of physical violence inflicted upon him by his Sergeant after he had fallen out on runs and/or displayed ineptitude on other such training occasions (Sorkin 20). The letters included references to medical incidents during training in which symptoms such as shortness of breath and heat exhaustion were ignored. Doctor’s orders recommending modified runs due to a heart condition were also dismissed as inconsequential. This document is cited in the court

testimony of Dr. Stone: “Patient complains of chest pains, shortness of breath, fatigue. Restricted from running distances over five...”(82) and “He’s got a medical history that suggests the possibility of a slight coronary disorder”(72).

On one occasion, in his desperation, Private Santiago attests to witnessing a fellow Marine illegally fire a round on the fence line (the division between the United States Marine Base at Guantanamo Bay, Cuba and the Communist Cuban military forces) (16). He promises to identify the erring soldier in exchange for a transfer. All letters totaling twelve are ignored and never sent off the base. The situation reaches a crescendo pitch on this one particular occasion when Lance Corporal Harold W. Dawson and his subordinate, PFC Loudon Downey attempt to execute an unprecedented hazing act with the hopes of finally correcting individual deficiency within their ranks. On this particular occasion Lance Corporal Dawson and PFC Downey grab Santiago and attempt to immobilize him by tying him up and placing a rag in his mouth for the purposes of shaving his head when something goes wrong. Santiago throws up blood and is dead within the hour. Although the initial particulars of the situation escape scientific rationale, the attending physician, Dr. Stone, concludes that the rag was treated with an untraceable poison – toxicology results are negative (17). Defense Attorney Jo Galloway learns that immediately after Private Santiago’s death, the cause was ruled as indeterminate. Four hours later, Dr. Stone presents an official determination that Santiago died due to the effects of an untraceable poison (38). Lance Corporal Harold Dawson and PFC Downey are both charged with murder and conduct unbecoming of a United States Marine. In their defense, they insist upon the absence of any poison and claim they were only following direct orders from a superior officer to implement a disciplinary measure called a “code red” on Private Santiago. This “code red” becomes the justification for an acquittal of formal charges; it gains legal currency as an unwritten, institutional policy of implied or intuitive knowledge.

### The Extenuating Circumstances

It is later revealed that on an earlier occasion Corporal Dawson is given a reprimand which eliminated consideration for promotions; the official reprimand was prompted by Corporal Dawson's violation of a hazing protocol in which he smuggled food to a Private being disciplined through starvation (100). His superior, Lieutenant Kendrick, testifies in open court that the reprimand was intended not as a punishment for an act of charity but as a consequence for the violation of a direct order, thus making his position "essential" in nature. The violation of a direct order – whether legitimate or illegitimate, moral or immoral – is a crime according to the officers in command of this unit. In this aspect, the direct order, as interpreted by Lieutenant Kendrick, is allowed to function autonomously as disconnected from any law. If the violation of a direct order is not considered in connection to any written law, then a punishment or exoneration may be arbitrarily implemented.

The fact that they call an ambulance right after seeing Private Santiago's blood undermines the possibility of malicious poisoning (35). In reference to the question of poisoning, during the course of the play, there is a flashback to a scene following Private Santiago's death in which Colonel Nathan Jessup is delivering a subtle threat to Dr. Stone. Colonel Jessup alludes to the possibility that he will initiate scrutiny of Private Santiago's medical records – a scrutiny that will reflect unfavorably upon Dr. Stone. Jessup implies his intention to expose a pattern of negligence on the part of Dr. Stone if he does not attest to the physiological effects of an untraceable poison (72). (After all, Dr. Stone was the physician who performed numerous physicals on Private Santiago and deemed him to be physically able to perform his duties as a Marine.)

## Building the Case For A Legal Fiction

### The Epistemology of The “Code Red” – Calvinistic Allusion in Intuitive Knowledge

As is uncovered during the course of the legal plight of the two subordinate Marines, the “code red” they repeatedly refer to is an “essential” aspect of institutional policy to be applied arbitrarily to various situations. In order to expose the “essential” nature of the institutional policy of this military unit, Sorkin alludes to several key aspects of Calvinistic theology. The first aspect is the belief in intuitive knowledge. As is revealed throughout the trial proceedings, the elusive “code” they live by, and the punitive directive of the “Code Red,” are the “essentializing” institutional components based upon intuitive knowledge that primarily dictate the military operations and the official behaviors of the men within this military unit. These elements of institutional policy in “the code” and “the code red” are “essential” concepts as their use escapes discursive review and can be applied without any due process that ordinarily justifies government action in a democratic society. One might say that this knowledge cannot be intuitive as it was communicated through verbal directive to the men in the unit; however, it is in application that the knowledge becomes intuitive. Each person is obliged to draw individual conclusions regarding what “the code” means and how and when to implement the “code red.” Application of this knowledge is always based upon supposition and ambiguous interpretations in meaning. The “code” and the “code red” are intuitive also because they are not written on paper and never discussed. During the course of the trial of the two accused Marines, Prosecutor Ross and Defense Attorney Daniel Kaffee seek evidence of this “code red” in various military manuals and directives. It is determined that not even the slightest allusion to any such thing as a “code” or “code red” exist in any official or unofficial form of military documentation (92-95). In turn, the members of this unit have been conditioned to treat the “the code red” as an implied understanding between the soldiers in this unit and the officers who order its use. They have been conditioned to accept faith based knowledge in lieu

of empirical knowledge. Sorkin depicts this “essentialist” strategy in the “code red” through an allusion to the Calvinistic concept of intuitive knowledge as metaphor. The Calvinistic concept of intuitive knowledge is the metaphor for the “essentialist” nature of the “code red” that employs faith based knowledge that insinuates divine directive. The “code” and its punitive arm – “the code red” – are repeatedly cited in juxtaposition with divine invocation: “Get your house in order, God is watching,” (56) “Private Santiago is dead because he had no code and God was watching,” (50) and “he died because that’s what the Lord saw fit” (Sorkin 71). These institutional policy directives in “the code” and “the code red” are faith based notions as they are juxtaposed with invocations of divine providence. Furthermore, because “God is watching,” the soldiers’ intuitive sense of God governs their choices. In turn, when any soldier is summoned to evaluate the consequences of his actions, he is asked to use intuitive knowledge: for example Lieutenant Kendrick stipulates that Private Santiago “died because that’s what the Lord saw fit” – a statement that foreshadows an intuitive judgment that ultimately forges the creation of a legal fiction in the justification for the use of the “code red.” Consequently, this God given directive is merged with an institutional loyalty and national patriotism that speaks to a non-negotiable concept that is reiterated in the chant the marines intermittently reverberate amongst them: “Unit, Corps, God, Country!” (Sorkin 41). These words signify the core elements of “the code” – a code of conduct that is only known through an insinuated collective understanding and applied intuitive knowledge. The rhetorical unity in words such as “Unit, Corps, God, Country” insists upon a cohesiveness of ideas and an ideological synchronicity that merges military operations, individual behaviors and institutional policy with religious belief. This knowledge is being employed with the presumption of a cultural/religious homogeneity that is nurtured and perpetuated through a conditioning and indoctrination process. Still, ultimately, it is a cohesiveness of the rhetoric that dominates all individual action, implies a certain element of immutability and eliminates the occasion for discursive scrutiny. The problem is that this is a



military unit within a democratic society that should advocate for pluralism, freedom of religion and the equal coexistence of diversity.

#### Calvinistic Allusion In Outward Significations – The Power of Revelation

Problem solving is “essential” as dictated by this unwritten “code red.” Sorkin, in order to represent this “essentialist” element in the problem solving strategies within this military unit, alludes to the Calvinistic concept of divine revelation in which aspects of the physical world are considered to contain self-evident, innate properties which are manifested in superficial appearances and pedestrian truths. Private Santiago’s physical deficiencies and inadequate performance during training missions are treated in this manner. Instead of simply being considered as one unsuitable for life in the Marine unit, Private Santiago is labeled an enemy of biblical proportions in his state of inadaptability. In labeling him, or at least his deficiency, as a phenomenon of biblical proportion, Lieutenant Kendrick emphasizes the urgency and mandatory nature of the “code red” and Private Santiago’s need for moral correction. Within the context of the “code red,” problem solving is deemed to be the exclusive domain of the military unit itself and the occasion for its use is never discursive but relies upon the validity in superficial appearances and cursory knowledge. Unqualified information that is applied under the use of the “code red” wields the power of revelation as evidence of immutable states that warrant institutional management. Upon its identification, any behavior considered irregular, deficient or threatening to the military unit in any way is able to invoke the power of revelation. The men in this military unit are instructed that they must treat signs of military inadequacy and institutional disorder as occasions for moral correction in which the presence of self-contained divine prescriptions and indications are made manifest in intuitive knowledge.

Thereby, Private Santiago’s physical inability and state of incompatibility are treated as revelations of a profound truth that warrants a specific reaction from the men of the Marine unit: “he

had no code” (Sorkin 50). This statement that Private Santiago has “no code” is never qualified. The meaning of the phrase “he had no code” is to be ascertained based upon an intuitive understanding of the implied collective meaning between the members of this military unit. Sorkin addresses the existence of this larger collective meaning that is “essentialist” in nature with an allusion to the Calvinistic understanding of revelation by framing Lieutenant Kendrick’s justifications around biblical citation. As conveyed by Lieutenant Kendrick to his men, the “code red” gains its qualification not only as the essence of a direct order but through the soldiers’ adherence to scriptural directive in the New Testament. Lieutenant Kendrick, in his instruction to the men of his unit, in labeling Private Santiago’s situation as in urgent need of moral correction through the use of the “code red,” cites a passage from Revelations in the New Testament: “Revelations II: I know thy works and thy labor and how thou canst not bare the Which are evil. And thou hast tried them which say they are apostles and has found them to be Liars” (41). With this comment, Kendrick transforms a commonplace problem of unsuitability to military life into a moral problem of quintessential importance. A liar, traitor and clandestine figure of biblical proportion whose behaviors exhibit the ultimate example of disobedience and moral depravity must be disciplined.

Moreover, Kendrick appears to fortify this sense of presumed cultural homogeneity in his unit by invoking a binary distinction between Private Santiago and the other men of the unit. In order to do this, there must be an ironclad belief in the existence of a consistent homogeneity of thought among the men of the unit in some aspect that deems any digression as blatant opposition. Additionally, Kendrick’s citing of the New Testament acutely speaks to a sense of presumed cultural homogeneity of a religious nature. Sorkin incorporates this particular passage from the New Testament that poses a binary distinction that will be determined through physically manifested irregularities - the inability to adapt to the social institution and its requirements - which is deemed as synonymous with moral depravity. Consequently, when these binary distinctions are made manifest to the men of the unit, Kendrick

implies, they are compelled by God to act: “Revelations II: I know thy works and thy labor and how thou canst not bare them which are evil. And thou hast tried them which say they are apostles and has found them to be liars” (41). Note the use of the word “evil,” which establishes the premise for a binary distinction. In this passage, it is suggested that Private Santiago’s state of inadaptability is in reality not only a state of moral depravity, but an evil that must be corrected and rooted out. In turn, Private Santiago’s presumed “evil,” identified in the particular displays of his physical deficiencies, is deemed as evidence of traitorous acts that must be subject to moral correction. Military disloyalty, physical inability and moral depravity are juxtaposed and rhetorically merged in a pseudo synonymous manner. In turn, the soldiers’ loyalty to the security and order of the military unit is juxtaposed with a loyalty to carry out God’s bidding. Thus, military compliance with rules and directives becomes “essential” in nature as its construction is ultimately subject to divine contingency. In turn, the words of Kendrick imply that executing the “code red” is an indication of virtue and in itself a virtuous act. When attempting to persuade Lance Corporal Dawson and PFC Downey to follow through with the “code red,” he asks: “Do you need someone from outside this unit to show you how to be good,” and “Do you need someone from the outside to show you how to be right” (Sorkin 41)? Of course, virtue itself is only qualified in “essential” terms. Virtue is defined as living by the intuitive knowledge of “the code” itself and implementing the “code red” when necessary. As the “code red” is not written down in any paper, what warrants its use or constitutes the particulars of its application is unknown. In its capacity as an unknown, unqualified military directive, its application is “essentialist” as it can be applied in a multitude of ways in order to ameliorate a multitude of unknown problems without the slightest obligation to undergo discursive scrutiny.

### Predestination – An Essentialist Moral Label

After the implementation of the “code red” a Calvinistic rhetoric is evinced that further solidifies the notion that the institutional operations are “essentialist” in nature. Private Santiago’s inability to comply is deemed in this statement to be simply a manifestation of an innate state of deficiency – a character flaw. “He had no honor” (Sorkin 50). Thus, Private Santiago’s state is an either or proposition. The words used by the commanding officer Kendrick - “he had no honor” - suggest a self-contained state as what constitutes honor is never qualified or discussed. Honor, in “essential” terms, requires following the unwritten institutional code that gains its justification from divine sanction. Lieutenant Kendrick, in citing the cause of Private Santiago’s death, proposes a metaphysical/moral explanation within the framework of an institutional protocol. The “code red” is the institutional procedure that is applied according to a method understood through intuitive knowledge. The application of this “method” produces a metaphysical result: “He’s dead because he had no honor” (50). This is a form of reasoning that alludes to Timothy Dwight’s rhetorical style that insists empirical events are a result of God’s indirect intervention in the institutional operations of government for the purposes of correcting the immoral – a concept that will be discussed later. Additionally, Lieutenant Kendrick asserts, “he’s dead because he had no code,” thereby implying an “essential” state beyond remedy (Sorkin 50). When interrogated by the investigating attorneys, the reference to metaphysical phenomenon that explains moral depravity constitutes the institutional policy statement as conveyed through Lieutenant Kendrick. Private Santiago is simply dead due to his inability to adequately comply with an unwritten law or to possess the compunction for obedience; he is therefore deemed to have been in a state of moral depravity. Furthermore, due to his state of inadaptability and moral depravity, God struck him down, so to speak. In this passage, the Marine commander is asserting that divine will is what killed Private Santiago because he was a bad person and God would not tolerate it: “He’s dead because he had no Code. And God was watching” (Sorkin 50). This passage alludes to the ideas in a famous sermon,

“Sinners In the Hands of An Angry God,” (1741), (cited earlier) delivered by Calvinist Jonathan Edwards, in which he expostulates that the damned will be struck down within the physical world by seemingly sublime events that bear no logical physical explanation. God will simply cause sinners to die in a demonstrative fashion in which no rational explanation can suffice. Lieutenant Kendrick places this same sort of rhetorical framework around the occurrence of Private Santiago’s death.

### Supernatural Rationalism and Calvinist Timothy Dwight

In the subsequent trial, the defense counsel builds a case around the institutional protocol of this Marine unit – what I believe to be an allusion to the Calvinistic concept of “supernatural rationalism” as a metaphor for a real world dynamic in which divinely directed institutional Essentialism is applied. The Calvinistic principle of “supernatural rationalism,” created by Timothy Dwight, stipulates that God works within the empirical world through specific institutions and agencies that have been deemed as facilitators of divine will (Dwight in Berk 79). These institutions and agencies facilitate divine will by directing the protocol for human behaviors through revelation and treating empirical events after the fact as evidence of divine revelation. Furthermore, all behaviors and actions taken by people within the institution must be in accordance with the knowledge that God is present in vigilance with the expectation that His will be facilitated. It is all part of a “scriptural plan” that is to be carried out through “secondary agencies” – the religious institutions being only one type (80). The doctrine of “supernatural rationalism” deems that God’s supernatural powers work in conjunction with human reasoning and the “circumstances of life” (80). In turn, abstract reasoning, which constitutes divine providence, works in a symbiotic relationship with “the daily currents of existence” (80). The term “supernatural rationalism” allows a place for God within the daily functions of a military institution and its bureaucratic procedures and military operations.

According to the Oxford English Dictionary, rationalism is defined in several ways. Primarily, rationalism is defined as the belief that man possesses intrinsic knowledge that allows him to draw his own conclusions independent from experience. Certain propositions and their implications are considered to be self-evident based more on conjecture than proof. From a theological perspective, rationalism is a gift of God that leads people to uncover religious truth through thought processes aside from direct revelation; however, revelation, in some form, plays a role. “Supernatural rationalism” is a theological/political philosophy that simply lends more credence to the notion of an indirect form of divine intervention causal in the human decision making process. Human reasoning ability is a component of intuitive knowledge and, as such, a gift from God that allows a person to operate within the prescriptions of God’s institutions of government. The determination of who is allowed to function within the prescriptions of God’s institutions of government is intuitively based upon assumptions regarding who is blessed with the gift of grace, and therefore saved, and who is not. The “code red” itself functions as a form of intuitive knowledge, independent of experience and closed to discursive scrutiny. What is significant is that this intuitive knowledge is not only individually applied but collectively applied knowledge that is mutually considered among the men of this military unit as something referenced based upon faith and allegiance alone. If this “code red” referred to a religious observance conducted within the walls of a religious institution disconnected from military or governmental institutional functioning, it would be a private matter. The fact that this “code red” or intuitive knowledge is being applied as part of the daily institutional operations of a military unit within the government of a democratic society is significant.

#### Leading Up to the Implementation of the “Code Red”

Lieutenant Kendrick’s appeal to Lance Corporal Dawson is delivered with a sense of urgency that coaxes the recognition of a military obligation to accept the intuitive understanding of “the Code Red”

as God's directive. Hence, in the recognition of institutional policy as God's directive, personal reticence is more easily surrendered. Kendrick's instruction constitutes a moral imperative more than a direct order. Kendrick's instruction implies Corporal Dawson is one of God's agents and as such must fulfill a divine mission:

God is watching. Lance Corporal Dawson. And he helps those who help themselves. And so do I. Get your house in order, Lance Corporal. Unit, Corps, God, Country...and duty to self simply isn't part of the equation. Get your house in order, so that these men can believe in you again. Get your house in order...so that the Lord Our God can look down and say 'There is a United States Marine and I will stand at his side.' (Sorkin 56)

This passage alludes to the concept of "supernatural rationalism" as a metaphor for institutional religious Essentialism. It points to a real world situation in which God is working from within the institutional operations of the United States Marine Corps and is expecting a particular solution that will satisfy a particular outcome. God, in standing by the soldiers' side, figuratively speaking, oversees and directs the men as they are acting in the capacity of their respective offices. Furthermore, Kendrick tells Dawson that since divine will is the justification for the required actions, a certain sense of urgency is omnipresent and anticipatory of an affirmative resolution. The United States Marine Corps, in this passage, is deemed as the institution created to facilitate divine will. Lance Corporal Dawson, as an agent of this institution, is required to act according to the expectation because God is involved in "the daily currents of existence" (Dwight in Berk 80).

#### The Absence of Malice: An "Essential" Mandate – God Was Watching

One particular scene depicts a flashback to an earlier time in which Lance Corporal Dawson is reluctantly initiating the "code red" on Private Santiago. During the course of the trial, it is revealed that many prior occasions warranted the implementation of a "code red" on Private Santiago. As his platoon

leader, Lance Corporal Dawson prevented this from happening for as long as he could and when finally forced to act, he offers comforting words: "This is my job, Private, okay? It's my responsibility. I've gotta train you how to be right. You're a man and you've got honor. You can't make mistakes" (Sorkin 43). Downey contributes his concerned observation: "You're lucky it's us, Willy. Could be worse. Could be somebody else" (43).

When Attorney Daniel Kaffee interviews Lance Corporal Dawson and PFC Downey, he asks for an explanation for their actions regarding Private Santiago aside from the fact that they were ordered to execute a "code red." They keep referring to the fact that Private Santiago did not follow the code, and that institutional punishment was mandated by the superior officers. Daniel Kaffee then probingly inquires, "Why did you care" (55)? The answer: "Because God was watching" (55). This statement illuminates the fact that the dynamic constituted an "essential" set of circumstances spawned from this sense of religious homogeneity working in symbiosis with military directive.

The treatment of authority itself was "essential" and closed to censure. When Lieutenant Daniel Kaffee questions Lieutenant Kendrick, he replies: "I have two books at my bedside, Lieutenant. The Marine Code of Conduct and the King James Bible. The only proper authorities I'm aware of are my commanding Officer Colonel Nathan Roy Jessup and the Lord Our God" (99). With this statement he posits authority as something beyond reproach. He implies that Nathan Jessup's authority is worthy of being juxtaposed with divine authority and most certainly divinely sanctioned. This statement affirms that at least within this unit, divine authority and the Bible are the sovereign sources for managing the institutional operations and individual behaviors. This scenario in A Few Good Men is considerable as it points to a theocratic style institution in which metaphysical directive works in conjunction with the empirical operations of government. This scenario is compatible with the basic premise of Calvinist Timothy Dwight's concept of "supernatural rationalism."



### The “Code Red” – An “Essential” Understanding

The “code red” itself performs in the role of abstract signification that will satisfy the criteria for a multitude of unknowns. The “code red”, although unwritten and unrepresented in symbol and sign, is utilized as a way for the institution to expand its powers by forging a psychological codification for a God-given bond between individuals and a pledge of loyalty to this bond. This dynamic assumes a religious/cultural homogeneity, and functions as if all endorse the same general belief system that guides everyday action. A ubiquitous allegiance to this God-given bond in everyday action aids in the unquestioning obedience to policy in all its forms. This God-given bond forges a cultural homogeneity where it does not particularly exist and when merged with institutional policy, eliminates the rhetorical justification for dissension. Furthermore, because the “code red,” as a codification for a God-given bond, is an abstract notion, the institution and the policies under its sanction are not restrained within any boundaries.

In being unrestrained by limits, the “code red” is closed to the discursive scrutiny of any democratic legal process. Discursive scrutiny is impossible for several reasons: the “code red” is unwritten and cannot be examined under the precedent of any written law in the Uniform Code of Military Justice, the code is an implied understanding that is rarely discussed openly between the members of the unit, and therefore the degree of compliance and a cohesive, accurate measure of the collective understanding regarding its meaning can never be exactly determined. Furthermore, the “code red,” an unwritten law, is verified as the substance of a direct order – the most potent form of institutional power within a military unit. As such, the men who apply this “code red” gain an acquittal of a murder charge premised upon the existence of this intuitive knowledge contained in a direct order and its application. The “code red,” fictional in terms of legal qualification, gains legal currency within the parameters of the Uniform Code of Military Justice. In its status as a legal currency closed to

discursive scrutiny, the “code red” wields a self-contained judgment – a pre-requisite governing all actions past and future. All judgments of future actions are made in an “a priori” sense – prior to the implementation of action and prior to any legal review – with the aim of promoting this sense of cultural homogeneity and a merging of belief systems for the purposes of maintaining control and securing power structures. As in Billy Budd, Sailor and The Caine Mutiny, unwritten institutional policy premised upon intuitive knowledge is designed to exact an “a priori,” self-contained judgment. Thus individual rights are nullified.

Moral Deficiency As the Explanation for Individual Inability to Comply With the Expectations of the  
Godly Institution – Timothy Dwight’s Philosophy of Moral Correction

Within this scenario, military mandate exists in a symbiotic relationship with a state of moral righteousness gained and sustained through some “a priori” divine decree and real world applications of intuitive knowledge. In order to highlight this “essential” world premised on divine decree, Sorkin focuses on Lieutenant Kendrick’s use of this biblical reference in his directive to his men in which it is insinuated that individual inadequacy in relation to military operations is synonymous with a state of religious non-compliance and thus pertains to a state of damnation in the Calvinistic tradition. This is exemplified in Kendrick’s words: “I know they works and thy labor and how thou canst not bare them which are evil”. And thou hast tried them which say they are apostles and has found them to be liars” (Sorkin 41). Kendrick’s use of this biblical passage in his message implies that the men of the unit who are living in a state of institutional compliance (moral righteousness) are born with an instinctive, God-given ability to identify evil and correct it. In turn, due to the nature given to them by God, they have an “a priori” sense of revulsion for evil as “thou canst not bare them which are evil.” Furthermore, God has sustained a direct connection with them and is participating in their daily activities: “I know thy works and thy labor.” Additionally, the phrase, “and thou has tried them which say they are apostles and has

found them to be liars,” insinuates that the men of this unit – specifically Lance Corporal Dawson and PFC Downey – are in possession of a form of intuitive knowledge given by God that allows them to recognize evil in other people. In Calvinism, a person’s moral status is evident in “outward tokens and manifestations” of grace. Thus, this statement by Lieutenant Kendrick alludes to a sense of religious/moral homogeneity of a Calvinistic nature that is operational within this military unit.

Furthermore, Lieutenant Kendrick’s contention that Santiago is a traitor in the sole aspect of his inadequacy and inadaptability as a soldier, is indicative of a binary contingency of a moral nature in which obedience and disobedience constitutes a definitive precedent: inadequacy, morality, military operations and institutional functions exist as “a priori” and “essential” under the all encompassing umbrella of divine directive. This rhetorical stance alludes to type of thought in early American Calvinist society in which social inadaptability was juxtaposed with legal offense and immorality as signs of pre-destined damnation. As Lieutenant Kendrick insists, Santiago “has layed waste our priorities and made wretched our code” (Sorkin 41). However, the accusation will never be subject to discursive scrutiny as “the code” is unwritten and only supported through the implied consent of the men of the unit and their belief in an overarching divine directive that compels them to obey this unwritten code. Private Santiago’s disobedience, evidentiary of moral depravity, in not following the code, is the license for PFC Downey and Lance Corporal Dawson to conduct the hazing incident. The “code red,” the command for moral correction, also serves as the substance of their defense – as they were only following a direct order. What makes this incident an example of the use of “supernatural rationalism” is that Kendrick invokes divine will and the suggestion of a binary distinction between the men and Santiago as the substance of his institutional policy statement. However, it is a modified form of binary distinction that is able to be subject to amelioration. There is an institutional remedy for the moral deficiency in “the code red.” In the theory of “supernatural rationalism,” Timothy Dwight avers that evidence of evil through displays of “outward tokens and manifestations” in the world is God’s call to action. The

institution, as an agent of God, must facilitate the correction of this “evil” through its agents – in this case, the Marines in the unit. Private Santiago’s physical weakness and inability to adapt to Marine Corp life are treated by the commanding officers as proof of a weakness - synonymous with an incipient evil - that must be physically chastised, corrected and/or rooted out. In his consultation with his defense team, Sam Weinberg and Daniel Kaffee, PFC Dawson explains the purpose of implementing the “code red” – they were obliged to “train him to think of his unit before himself. Train him to respect the Code” (Sorkin 34).

Dwight repeatedly emphasizes the existence of a moral government on earth that is intended to carry out divine will. Based upon the words of Lieutenant Kendrick of the marine unit in Guantanamo Bay, one might conclude that his rhetoric is indicative of a moral government premised upon religious principles. When Attorney Daniel Kaffee accuses the Lieutenant of acting as a renegade in his failure to seek counsel from the proper authorities regarding Private William Santiago, he justifies his actions as part of his duty under his arbitrary license to make intuitive judgments and cites God as the authority over his unit; furthermore, he insists, God and the Marine code of conduct work in symbiosis (Sorkin 99).

It is an ardent allegiance that rejects any impediment from the democratic/pluralistic spirit of American legal process and as such proclaims its self-contained judgment: “I believe in God and His son Jesus Christ. And because I do, I can say this: Private Santiago isn’t dead because of a Code Red. He’s dead because he had no honor. He’s dead because he had no Code. And God was watching” (Sorkin 50).

However, one might ask, why does Sorkin allude to the Calvinist concept of moral government? What cultural significance does this concept have for the United States and particularly military justice? In some respect he is suggesting that American government is legitimized through implied understandings of faith based notions that direct institutional operations and he is fashioning American democratic government as the essence of mutual understandings of a shared religious faith. Max Weber

notes that early Christian faiths directed these mutual understandings of a shared religious faith through “intermediaries” who operated within the governmental system (Weber in Schroeder 88). In this manner, a hierarchy was established and compliance with governmental directive was monitored by identifying “tangible signs of grace” (89). According to Weber, in The Protestant Ethic and the Spirit of Capitalism, this basic premise of early Christianity was modified and expanded to incorporate a world view centered upon the concept of Predestination. Martin Luther, however, suggested the notion of a pre-determined salvation and the notion that it was impossible to anticipate divine actions (99). Calvin, in refining Luther’s hypothesis into his doctrine of Predestination, formulated a decree that extended an over-arching concept to all institutions in general and established a binary distinction between individuals that ideologically surmounted any other forms of metaphysical power that the institution could wield (101). Weber contends that this doctrine of Predestination was the impetus for the expectation and use of a common ethic that would direct and monitor individual behaviors through the institutions of government (101).

Thus, when Sorkin reiterates the explanation for Private Santiago’s death as deemed to be the consequence of a moral judgment, he is perhaps speaking to a larger cultural reality in the United States. If Private Santiago “had no code,” it is implied in the justification for the disciplinary act of the “code red” that he was missing something ethical and moral as a key element of Christian belief, and therefore had no place within the larger society that was this military unit.

A Marine unit is a governmental institution and as such would appear to require this disjunction between church and state, and between bureaucracy and morality. Yet in the Marine unit of A Few Good Men, bureaucracy and morality are merged under one cohesive and encompassing umbrella of divine imperative. In Dwight’s notion of a moral government on earth, all causes and effects are ultimately to become subordinated to the circularity of divine will (Dwight in Berk 95). The justification

for this subordination of all causes and effects is “the means of grace” (95). Consequently, while empirical events are not directly predestined, the gift of grace that causes people to act in a certain manner is predestined.

For this Marine unit on Guantanamo Bay, Cuba, “the means of grace” is “the code.” Those who follow the code are blessed with divine grace, and those who disobey the code are damned. Private Santiago disobeys the code by being physically weak and writing to his Senator to complain. Lance Corporal Dawson explains this circumstance: “We live by a Code, sir. Either we were right or we were wrong. We don’t make deals” (Sorkin 57). What he is actually saying is that any action implemented by a member of this military unit can only be evaluated in “essential” terms. Lieutenant Kaffee, a lawyer trained to work within a discursive protocol, is confused. He wants his clients to make a public statement to Prosecutor Ross citing a direct order from Lieutenant Kendrick to apply “the code red.” The statement would be made in exchange for a plea bargain. In its acceptance, this plea bargain intrinsically carries a certain measure of guilt and responsibility for the accused men. Lance Corporal Dawson and PFC Downey refuse to make any statement as part of a plea bargain. They want a trial that will test the question regarding whether they lived by the code or did not. They feel that they are morally justified in “essential” terms and that the purpose of this military court within a democratic society is to make that theological determination. In essence, they want an empirical confirmation of a metaphysical, “a priori” state of moral justification in the “essential,” unwritten code. Either they followed the intuitive prescriptions of “the code” and implemented “the code red” in obedience to a direct order or they did not. They refuse to take personal responsibility for Private Santiago’s plight. From this perspective, God is completely in charge. The only question they are able to comprehend is whether they followed the orders of their superiors; in turn, those orders coming down the chain of command are synonymous with divine decree. Thus, this manner of thinking that has been ingrained through military training eliminates the conscientious obligation to entertain any empathetic feeling. Morality is “essentialist” as

a construction of some “a priori” component of a theocratic institution. Defense attorney Weinberg interprets the legal process to be one of discovery in which the truth will be uncovered through a discursive analysis of the evidence. He also feels that any moral truth must be evaluated according to a personal sense of right and wrong (69). Daniel Kaffee, subscribes to the notion that truth is determined according to the slant a good lawyer places on it – “we position the truth,” he asserts, (69). In Kaffee’s world, the extenuations and contingencies bear the weight for the truth of any individual act. For the members of this Marine unit, nothing is positioned and the truth of every individual act is ultimately deferred to institutional operations directed by the “code red” and sanctioned through the intuitive knowledge of divine decree.

#### A Legal Fiction – An Acquittal of A Murder Charge – Testifying to the “Code Red”

The acquittal finally arrives when Lieutenant Kaffee recognizes the nature of the system he is dealing with. Colonel Nathan Jessup is called to the stand at which point Kaffee baits him into admitting that he ordered the “code red.” All causes and effects that might ordinarily be considered within a discursive forum are rendered inconsequential as the only contingency is determined to be circular – reverting back to a direct order and the question of obedience or disobedience to an unwritten code. It is the intuitive knowledge within and between the members of the unit that instructs the men regarding the justification for the order and/or the validity of the order. When the “code red” is admitted as evidence, it functions as a legal fiction. It gains legitimate institutional currency as it forges an exoneration for an action that might be deemed at least involuntary manslaughter in a civilian court.

#### The Nature of the Argument – Was It Democratic and Fair?

Prior to the trial testimony, the three lawyers for the defense, Kaffee, Weinberg and Galloway meet to consult on the nature of the argument they are going to use to win the case and gain an acquittal of a murder charge for the two enlisted Marines. The plan is to win an acquittal by presenting

an “essential” and circular argument. Individual culpability will be ignored as individual action is legitimized in the act of following a direct order – the “code red.” Sam Weinberg, in the midst of the consultation, cites historical precedent that alludes to the injustice and morally reprehensible nature of the strategy. It was “an argument that didn’t work for Calley at My Lai and an argument that didn’t work for the Nazis at Nuremberg” (Sorkin 62). He is referring to war crimes/genocide trials in which acts of atrocity were rationalized as the consequence of merely following direct orders working through the chain of command. The My Lai trials occurred as a result of the massacre an entire village of 500 men, women and children by U.S. soldiers in Vietnam primarily because a U.S. Army unit wanted revenge for the death of a Sergeant and a body count that they could identify as Viet Cong conspirators. A platoon Sergeant Calley started shooting randomly in execution style and later excused himself as merely being confused about the meaning behind a direct order. The Nuremberg trials were the result of Nazi war crimes to include the murder of six million Jewish people in the Nazi concentration camps. The Nazi war criminals also attempted to excuse themselves by making a circular argument that deferred to the validity of a direct order. Of course, in neither one of these cases did this strategy work. In the trial of Lance Corporal Dawson and PFC Downey, this “essentialist” argument, validated with intuitive knowledge in “the code red,” obfuscates the need to scrutinize individual judgment and behavior. In its aspect of obfuscating due process, “the code red” functions as the valid legal currency. What is remarkable is the fact that the morally despicable nature of the strategy is uncensored by the defense team with the exception of Weinberg: “I think the argument we are going to make on Monday is morally reprehensible” (Sorkin 85). Aside from Weinberg’s citing of cases of grave injustice, why might this legal occasion be morally reprehensible? Primarily, it is because judgment is self-contained in the unwritten law of the “code red.” It is undemocratic as judgment is not part of a discursive, judicial review. It avoids any act that will force the issue of individual responsibility and assessment of culpability. Democratic



justice is replaced by a pre-requisite, self-contained element in intuitive knowledge that lends patronage to inevitable states and invents a foregone conclusion.

### Timothy Dwight's Political Vision- The Greater Common Good

Dwight was not only a Connecticut politician in the early Republic but the president of Yale College and an active minister in the Calvinist Protestant faith. He spent much of his life attempting to merge the three venues – politics, religion and education – into one theocratic ruling discourse. He believed in a process of moral correction and the aspect that God worked in active ways within the physical world through institutions of government in order to aid the righteous in the task of performing these moral corrections. Within this larger premise, Dwight continually promoted the notion that God's plan required people working in service to civic government (Longaker 111). His goal, Longaker states, was to establish and sustain a "Federalist hegemony" (111). In turn, Dwight believed that the primary duty of the Christian citizen was to surrender individual concerns to needs of the common good: "God requires us to obey the magistrate" (Dwight qtd. in Longaker 111). The government, under God's guidance, knows what is best for the individual and the public at large; however, what is best for the individual is to submit to the public will dictated by the theocratic government under divine guidance. As Dwight stipulates: "A public or common good is more valuable and ought to be more highly regarded than the good of the individual" (Dwight qtd. in Longaker 111).

For those who have trouble submitting their individuality to the general welfare under theocratic government, Dwight offers a remedy. Specifically, Dwight believed in the power of "regeneration" through moral correction in ameliorative acts and revelation (Dwight in Longaker 109). Regeneration is supposed to change a person's character and make him or her more suitable to life within God's Federalist society. This regeneration is presumed to be achieved through peaceful, non-forceful ways in acts of moral correction (112). Regeneration is intended to be a process of "persuasion"

(Dwight in Longaker 112). In A Few Good Men, Colonel Jessup's disciplinary action in the "Code Red" is not intended to cause death. It is supposed to be an act of "persuasion." As is noted in the narrative, these disciplinary acts were implemented on many prior occasions on other Marines at various times. The men were not immobilized or significantly hurt by these acts. These punishments were not intended to inflict serious or lasting damage and were expected to be endured with dignity and "grace." During testimony of the trial of Lance Corporal Dawson and PFC Downey, Corporal Howard, considered an outstanding Marine, recounts a time when he was the target of a "code red." He was apparently being corrected for dropping his weapon during a field exercise. After the incident, his disciplinarians took him out and bought him a beer (Sorkin 91). The ameliorative nature of the intrigue, as testified to by Corporal Howard, alludes to Dwight's version of institutional management in good natured moral correction.

#### The Expectations of the "Citizen Subject" – A Homogenous Vision of America

Timothy Dwight was primarily focused on the notion of the "citizen subject" (Dwight qtd. in Longaker 116). The "citizen subject" held the obligation to be virtuous. Virtue was defined as being obedient to the Calvinist God's moral government (116). Therefore, non-compliance with any facet of the institutional mandates of government was treated as a state of moral deficiency – a lack of virtue. Moreover, anyone not in compliance with governmental orders or requirements was deemed in need of moral correction. This construction of the "citizen subject" was developed through a rhetoric Longaker refers to as Dwight's "ideology of taste" (Dwight qtd. in Longaker 107). It was perhaps another way of promoting the notion that the elect will have an affinity for the good. In this discourse, Dwight told people what was expected of them as "citizen subjects," and what constituted good and godly inclinations – the "ideology of taste." This "ideology of taste" required support of the government through "conduct, virtue and belief about the position of the citizen with reference to the national

government” (Dwight qtd. in Longaker 107). From within this philosophical premise, moral directive required that the citizen subject ignore individual needs in service to the larger good and act in ways that would display this allegiance. This notion of “ideology of taste” implies not only an expectation of submission to moral government and compliance with social rules, but a universal understanding that forges a collective interpretation of events and the acquiescence of the individual will. Percy H. Boynton, in “Timothy Dwight and His Connecticut,” asserts that Dwight believed firmly that “a body of law had been evolved which shared finality only with scriptural revelation,” and that this authority completely controlled the citizen (195). Furthermore, the citizen, if resistant, “should be crushed by its power” (Dwight qtd. in Boynton 195). Sorkin, in his portrayal of Private Santiago’s state of inadaptability and non-compliance and its consequences, may have been alluding to the existence of a cultural mode that insists upon a cohesiveness of thought patterns and a cohesiveness in the interpretation of events that presumes a false notion of cultural homogeneity that is created in the military in times of war and/or political strife. Private Santiago was in disagreement with his commanding officers and the fellow soldiers in his unit. He held a differing view of events premised perhaps upon a disjunction between his expectations and the expectations of this Marine unit. The Marine unit required ideological and behavioral submission. Private Santiago’s act of writing to his Senator was considered an act of disloyalty – an immoral act. Of course, the issue of what constitutes good or godly inclinations regarding Private Santiago or any of the men in this Marine unit is never examined. What defines virtue is considered to be a culturally homogenous concept spawned through the intuitive knowledge in “the code.” Virtue is merely an implied cultural understanding that suggests a cultural homogeneity.

#### The Political Vision Forged Through a Presumption of Religious/Cultural Homogeneity

“Supernatural Rationalism” is a belief that man can gain divine knowledge and cultivate intrinsic virtue by following his five senses and relying upon intuitive interpretations that assign meaning to his

sensory perception (Dwight in Berk 79). However, what trumps this personal intuitive knowledge of God are procedural directives dictated by the institutions of government. According to Dwight, these institutions of government were to be considered as God's tools through which "scriptural plan" is to be carried out (80). In order to accentuate his form of theological government, the scriptural plans in the Bible were always juxtaposed with a political party and a political agenda. Christianity had a political mission. Lieutenant Kendrick, while speaking of God's imperative proclaims: "And don't let anybody tell you we are not at war" (Sorkin 56).

These statements, delivered in juxtaposition, while seeming rather inconsequential on the surface, in my view, reflect upon a long held rhetorical tradition. In this passage, evident is not only a call for moral correction but an invocation of a God driven military mission and a larger teleological political vision of exponential proportions. In this aspect, then, the policy statement of a presumably democratic government is premised upon this sense of religious homogeneity and the inexorability of a teleological plan. Furthermore, the statement "don't let anybody tell you we are not at war" in conjunction with statements of declared divine imperative are evidentiary of an elusive military mission that contains no definitive parameters or set military goals that must reach fruition at some specified date. Within the time frame of this play, no armed conflict or imminent threat is identified. The dynamic is reflective of a long standing conflict which stipulates no beginning and no end but suggests a larger, teleological construction of military conflict – a divine plan in which specific individual commitment is required. Additionally, in its aspect as a God-given military mission, it conjures a sense of religious homogeneity that must automatically be placed in opposition to a binary other. During the time in which the incident had taken place in Guantanamo Bay, Cuba, the U.S. was not at war, and yet Colonel Jessup and Lieutenant Kendrick speak to the men as if war has been ongoing and a military attack is imminent. While it appears obvious throughout the play that no imminent threat exists, the men are instructed to stand vigilant for a more abstract and open-ended threat that appears to be more morally contrived

than anything that could be defined within the parameters of a concrete military strategy. It is a sociological/theological threat from a binary other that Colonel Jessup, during his trial testimony, attempts to fashion as an imminent and perpetual physical reality:

We live in a world that has walls. And those walls have to be guarded by men with guns. Deep down in places you don't talk about, you want me on that wall. You need me there. We use words like honor, code, loyalty. We use them as the backbone of a life defending something.  
(Sorkin 116)

What is that "something"? Jessup never specifies, however, the ambiguity of the reference, in juxtaposition with "honor, code and loyalty," assumes a cultural and perhaps religious understanding among the witnesses in the court that speaks to this sense of homogeneity based upon an intuitive understanding. It almost appears as if Colonel Jessup has become completely immersed in his belief in his duty not only as a soldier but as a guardian of a larger, all-encompassing moral/theological mandate that necessitates a divinely sanctioned governmental protectorate that is "essential" and whose actions hold a self-contained qualification and justification. Colonel Jessup considers himself as a guardian father of democracy. In this role, he commands the unwavering trust of the populace regarding his actions much as a parent would a child.

Dwight argues for a "submission to God's paternal government" (Dwight qtd. in Berk 105). This act of submission is paramount to managing God's institution and reigning in immoral behaviors. In turn, immoral behaviors are considered to be synonymous with social inadaptability and a disinclination to submit to and merge with the institutional mandate. According to Berk, Dwight's rhetoric was primarily driven by his belief in a grand scheme. His "Christianity was prophetic" and constituted an "apocalyptic view of history" (115). History was pre-destined and empirical events were to be considered as signs of God's indirect intervention and proof of a divine plan at work. Dwight did not believe in a strict Calvinist

construction of the concept of Predestination but in a more modified version that was compatible with the Age of Enlightenment, modern science and the Industrial Revolution. Yet his rhetoric always contained an intrinsic binary tone. Politics was always merged with “a priori” struggles between good and evil. An elemental part of this age old struggle between good and evil was the recognition of the existence of a divine mission for the conquest and preservation of America. America, he believed, was designated as the geographic location for the fulfillment of his Christian religious vision. With that intention, Dwight extrapolated upon the “City on A Hill” design of his forbearer Cotton Mather. He believed that the Revolutionary War was fought as part of God’s plan to create a Christian Mecca in the newly formed United States (133).

*Lieutenant Colonel Jessup: “Capering half in smoke and half in fire.” “Moby Dick”. Jon, when I quote Melville, you don’t have to nod your head up and down like you know what I am talking about” (Sorkin 21).*

Sorkin was thinking of Herman Melville when creating the character of Colonel Jessup. While this passage from Moby Dick refers to the machinations of a man alone on a ship’s deck at night seeing visions of ghosts and demons, its placement in A Few Good Men is significant. Dwight also functioned in a rhetorical style that was “half in smoke, half in fire.” Like Colonel Jessup, Dwight held on to a staunch political vision substantiated through his own personal sense of intuitive knowledge. He, as Colonel Jessup, saw his own contrived version of reality – his own inner ghosts and demons that drove his radical positions. Robert J. Imholt in “Timothy Dwight, The Federalist Pope of Connecticut” presents a profile of a man obsessed with creating and sustaining a theocracy in his corner of American democracy. Due to this compunction, Imholt states, Dwight was overly concerned with his ideological/political enemies. These individuals elicited a certain sense of urgency from him. He felt compelled, based upon his intuitive knowledge of divine mandate, to attack anyone in disagreement with his views ( Imholt

387). Furthermore, he believed that the task of the American federal system was to root out ideological enemies of his form of Protestant Calvinism by any means possible. Several historians involved in Dwight scholarship concurred that his writings and his political activities conveyed a persistent “paranoid style” (Howard, Hofstadter and Fitzmier in Imholt 387). Dwight considered himself as a watchdog protector of Calvinistic Federalism. His goal was also, as he saw it, to provide for the public well being by enforcing moral laws. He writes: “God may, both on rational and evangelical grounds, be expected to open his beneficent hand, and supply the necessary good. Here also, virtue may be safely pronounced to be the stability of the public happiness” (Dwight qtd. in Harris 456). In this affirmation, Dwight establishes an institutional protocol in which God will direct the moral compass of his government and secure the interests of His selected people.

While Colonel Jessup does not argue directly for the enforcement of a moral law, the rhetoric is similar in the manner in which obedience is defined in “essential” and moralistic terms according to intuitive knowledge in an unwritten code. Colonel Jessup is also a watchdog of sorts. He argues that he is acting as a Marine working to secure democracy and to protect the public from its sworn enemies on foreign soil (Sorkin 116). Jessup also attests to the fact that he is fighting for the larger vision – the general common welfare: “We’re in the business of saving lives”(31). The problem is that his methods are undemocratic and his arguments are circular. He, as Dwight, uses intuitive knowledge as the justification for his actions. Intuitive knowledge based upon a particular religious belief is not supposed to be a valid currency within a pluralistic democracy due to its religiously homogenous nature and its unverifiable status. Additionally Colonel Jessup incorporates this intuitive knowledge into a projection of a larger, encompassing teleological vision that constitutes the goals of the democratic society that is the United States. This reasoning gives him uncensored license as he is “saving lives” for some higher purpose that is unverified. Furthermore, this higher purpose, in its abstract, unqualified state of the securing the general welfare, warrants open-ended methods but no compromises and no scrutiny

according to Colonel Jessup. Part of his mission for securing the general welfare involves correcting the moral deficiencies of Private Santiago in “essential” terms. Sending him off base to another unit is not an option: “I absolutely believe that simply taking a Marine who’s not up to the job and packing him off to another assignment is the same as sending a kid into the jungle with a weapon that backfires,” Jessup declares (Sorkin 31).

This statement implies that Private Santiago really had no options. He was either going to be trained into submission or die in the attempt. His only option was “moral correction” – to be trained to “follow the code.” Private Santiago’s aptitude as a soldier, according to Colonel Jessup, carries the burden for the welfare of the entire Marine unit and the American society as a whole. (I remember in basic training being told repeatedly that any sort of TDP- training discharge program- or transfer was not possible. As part of the psychological conditioning, you were told by your drill sergeants that you would be trained adequately and meet the requirements or die in the attempt. Of course, they were not serious but when you are extremely fatigued, intimidated, mentally and physically worn down and sleep deprived you begin to believe anything. Also during training, there is a concerted effort to promote a sense of homogeneity on some level. The instructors tell you that they are now your family and you have now become part of one cohesive whole. The expectation is that all thoughts and actions from that point on will be deferred to the larger vision governing the goals of the military unit.)

#### Real World Examples of Legal Fictions and the Use of “Essentialist” definitions in Military Trials

In Aaron Sorkin’s 1980’s play about military life and a wrongful death in Guantanamo Bay, Cuba, much emphasis is placed upon the use of an unwritten law, “the code red,” and the manner in which there was no written instruction for its application. In fact, the “code red” becomes a legal fiction in the aspect that its use gains legal currency as the justification for an acquittal of a murder charge in a military court. In “Power and Liberty in Wartime,” Timothy Lynch discusses a real life situation in which



former President Bush, in the wake of the terrorist attacks of September 11, 2001, coined a term that was unspecified in definition, unqualified in its application and completely disconnected from constitutional mandate in its invocation. This term that President Bush coined was also a legal fiction. The term, “enemy combatant” was used to identify suspected terrorists and hold them in jail indefinitely without counsel or any rights of due process as specified in the United States constitution (Lynch 24). An alternative to this “enemy combatant” label might have been “prisoner of war,” which of course would have entitled a detainee to legal rights under the Geneva Convention (26). In lieu of an empirically qualified definition, the term “enemy combatant” functioned as an “essential” term – a non-negotiable, categorizing label used to qualify a multitude of unknowns with the intention to obfuscate due process and the discursive review of evidence. The term gained legal currency as an instrument of the Presidential powers while remaining antithetical to the constitutional prescriptions for the Executive Branch of government and the “checks and balances” system. The fourth Amendment to the United States constitution states that the detention of an individual requires an arrest warrant, protection against illegal search and seizure, probable cause for an arrest and a hearing before a judge to determine if there is a continuing justification to hold a person in custody pending a trial. President Bush’s lawyers argued that the President was not bound under the prescriptions of the Fourth amendment because his use of the unqualified term “enemy combatant” was part of his arbitrary powers as President of the United States and the chief executive (31).

The term “enemy combatant” is an “essential” term that qualifies a mandatory detention and the nullification of individual rights under very arbitrary circumstances. Similarly, the term “code red” is an unwritten, ambiguous term perhaps coined by the Marine unit’s Colonel Jessup that mandates real world action and exacts real consequences. The “code red” is a term that could also be applied arbitrarily as a disciplinary action without a review of the circumstances requiring discipline. Furthermore the “code red,” in its aspect as an unwritten code of implied consent, has no definitively

established elements that might qualify its use. The “code red,” in effect, is an intuitive form of knowledge that qualifies a punishment without due process. The term “enemy combatant” works in much the same manner. The term “enemy combatant” is a label that assigns an official determination without the benefit of discursive scrutiny. It is a form of intuitive knowledge in the fact that President Bush and his team made these determinations regarding who would be assigned the classification of “enemy combatant” based upon supposition and information that was not proven. Consequently, the term forges a conviction prior to any due process. Thus, the abstract, unqualified term constitutes a legal judgment in and of itself. Because President Bush’s use of this term gained legal currency in wielding the power to detain suspects indefinitely without due process, one might say that it constitutes a legal fiction – an unsubstantiated definition that functions within the parameters of law.

#### Real World Evidence of “Supernatural Rationalism” – The Presumption of A Religious Homogeneity

A recent article in The Public Record points to a deep seated presence of Protestant evangelical rhetoric within the United States military, particularly in the years following September 11, 2001. According to Jason Leopold, in “Military Evangelism Deeper, Wider Than First Thought,” soldiers entering basic training at Fort Jackson Army Base in Columbia, South Carolina listen to lectures in which the message of Jesus Christ is delivered. This religious instruction, he contends, is as standard as the rigorous physical training (1). Apparently, Frank Bussey, director of Military Ministry at Fort Jackson, was quoted as saying “government authorities, police and the military = God’s ministers”(Leopold 1). Bussey also is the author of his own Bible study guide entitled God’s Basic Training, a book from which he gathered the material for his military training lectures. The book was posted on a military website and has since been taken down, but can still be viewed in other online formats. In fact, his organization, Military Ministry, has stated on its website that its purpose, as a facet of the United States Army institutional operations, is to convert soldiers to Christianity. Mikey Weinstein, a United States Army

Captain and the founder and president of Military Religious Freedom Foundation, states that on the Military Ministry web site, officers of the grade of Lieutenant Colonel and Major appear photographed in uniform standing next to Bussey (2). He cites this photo opportunity as a clear violation of the separation between church and state.

On another occasion, Leopold reports, high-level Pentagon officials were reprimanded for participating, while in uniform and on active duty, in a video sponsored by the Campus crusade for Christ's Christian Embassy (4). Scot Blom, the Campus Crusade for Christ director and a teacher assigned to give instruction at the United States Air Force Academy, acknowledged that the video was used to spread Christianity through classroom instruction for new recruits and encourage Bible study (4).

Captain Mickey Weinstein is quoted on *Science Blog* speaking candidly about his own personal experience in the United States Army. He stated that upon receiving his commission as an officer, he was obliged to sign an oath of allegiance that contained the words "so help me God" (Brayton 5). He adamantly refused on the grounds that he felt that this stipulation violated the constitutional separation of church and state. The United States Army threatened to bar him from receiving his commission as an Army officer. He never retracted his position and somehow retained his post; however, he later reflects upon the situation as poignantly indicative of "a practical reality in the United States Army" (Weinstein qtd. in Brayton 5). He then proceeds to elaborate on the presence of a strong Christian undercurrent within the institutional operations of the Army itself pointing out such details as the fact that he was ordered to eat an MRE (field food package) that contained pork, which went against his conscience as a non-Christian. He appealed the case on many hierarchical levels, and was basically told that the Army Mess Hall and the field food ration program were designed to cater to a Christian community with Christian values. Additionally, this Army Officer recalled many occasions when he was invited, indeed almost compelled, to attend "fundamentalist Christian prayer and fellowship" (6). This perpetual call to

Christian worship is reflective of a general Army policy that encourages religious homogeneity in many other aspects of military life.

The United States Army publishes a suicide prevention manual that contains strong Christian rhetoric and Christian moral directives. This publication entitled “The 2008 Army Suicide Prevention Manual,” is apparently used in training classes in conjunction with a PowerPoint presentation that conveys the notion that Christian ideas are ubiquitous and a form of “essential” knowledge (1). One slide states: “Soldiers need to take care of each other and rid any thoughts of survival of the fittest. Almost all religions adhere to some form of Christianity’s Golden Rule, or the Categorical Imperative of Immanuel Kant” (1). This quote is significant as it suggests the supremacy of intuitive knowledge as the operating epistemology within the United States Army and Christianity as the epistemological basis of this intuitive knowledge. Immanuel Kant, in his essay, “Critique of Pure Reason,” asserts that innate knowledge that is “a priori” is more valid than knowledge gained through experience. This “a priori” or innate knowledge, he contends, also heavily influences knowledge obtained through experience. Therefore, experience is molded by intuitive knowledge and not vice versa, according to Kant. Behind Kant’s theories is the assumption that most people are born with the same form of intuitive knowledge. This premise implies an epistemological homogeneity that could extend to cultural and religious practices. Those who might not possess this form of innate knowledge are automatically distinguished as outside the parameters of a presumptive and broad based category. The United States Army incorporated a reference to Immanuel Kant for a deliberate reason. They intended to emphasize the importance of intuitive knowledge which might thereby promote a feeling of unity among the soldiers that is predicated upon an assumed homogeneity of thought. This homogeneity of thought strongly suggests a cultural, social and religious foundation that is ideologically mutual. The problem is that the United States Army is an institution within a pluralistic, democratic society. It is not supposed to function as a theocracy within one cultural heritage.

Recently, the Pentagon produced a cable program in which Christian missionaries were working alongside of the U.S. Army in Afghanistan attempting to convert Muslims to Christianity (1). Another Pentagon endorsed cable program entitled “God’s Soldier” aired in September 2008 on the Military Channel. It was filmed in Hawijah, Iraq and depicted an Army Chaplain promoting fundamentalist Christian beliefs. (The video can be seen on “You Tube.”) The Chaplain says: “The government is set up by God, Romans 13,” and “the magistrate has been called upon to execute wrath” upon the enemy by God. The rhetoric appears to be but a paraphrase of Dwight. Dwight said “God requires us to obey the magistrate” (Dwight in Longaker 111). Additionally, this video promotes God as an institutional agent of the United States government who is present through the agency of one Captain Chuck Papov acting in his military office. Chaplain Papov is heard calling to the soldiers stationed at their post in Iraq, “This is God, come to Bible study.” Another military video entitled “Travel the Road” was filmed in Afghanistan and aired in April 2006 in which Christian missionaries were filmed walking alongside of U.S. soldiers on patrol in a war zone.

#### “Jesus Rifles”

Recently, an ABC News documentary show “Nightline” aired a story reported by Brian Ross in which he alleges that a Michigan based Arms Company sold the U.S. Army rifles encrypted with biblical references from the New Testament. The encrypted print consisted of chapters and verses of the New Testament in code alongside of the model numbers of the rifle scopes. God has apparently been proven to be active in the institutional/military operations of the United States military to the tune of some 800,000 rifles.

## Conclusion

Aaron Sorkin's play A Few Good Men presents a dynamic in military justice indicative of a form of institutional operations within American democracy that presumes and actively works to sustain an illusion of a cultural homogeneity of a religious nature. These key texts of American literature are important as they critique a knowledge management style in military justice that assumes a fixed society and a cultural homogeneity through allusions to Calvinism and Calvinistic principles. Through these Calvinistic allusions to Predestination ("a priori" states), revelation in outward signification and "supernatural rationalism," Essentialism and "essentialist" notions are revealed. These "essentialist" judicial processes promote a false sense of cultural/religious homogeneity that eliminates the occasion for the consideration of diversity and individual rights in their distinctions. In turn, these texts censure cultural thinking modes as antithetical to the discursive spirit of democratic justice and counter indicative of the pluralistic nature of American democracy in general. These three texts examine management information as "essentialist" in the use of an "intuitional surmise" – intuitive knowledge - in order to stage events and create a foregone conclusion – a fixed, "a priori" judgment.

In Billy Budd, Sailor, Captain Vere uses his "intuitional surmise" to formulate a strategy for dealing with Billy Budd and a suspected mutinous plot. In The Caine Mutiny, Lieutenant Thomas Keefer uses his intuitive sense to formulate unqualified conclusions regarding the sanity of his Captain. In A Few Good Men, the intuitive information is an unwritten element of institutional policy in "the code" and "the code red." Calvinist allusion as metaphor deals with the use of intuitive knowledge. What makes Calvinism specific to this form of intuitive knowledge and justifies its use as a metaphor for "essentialist" judicial process is the fact that this knowledge is considered within the context of Predestination and a fixed universe. This consistent allusion to the Calvinistic concept of Predestination serves as the grand rhetorical contingency for all the "essentialist" modes of thinking in the judicial processes that presume

a fixed universe. Furthermore, under the larger premise of Predestination, the notion of “moral necessity,” as a metaphor for “essential” and immutable states, links the judicial process in all three texts. (The concept of “moral necessity” was coined by Jonathan Edwards to define the fruition of innate human character traits that are immutable due to the Predestination and thus, “moral necessity” put in place by God.) If everything occurs due to “moral necessity” – defined as something that must happen as it was pre-destined by God from the beginning of time – an act, a state of being or as in A Few Good Men, an institutional policy is treated as a self-contained judgment.

In Billy Budd, Sailor, the notion of the Calvinistic concept of “moral necessity” in divine revelation is used by Melville as a metaphor for “essentialist” thinking that treats an accidental act as a self-contained, “a priori” phenomenon. The swing of the fist itself is deemed to be a self-contained judgment as the will of God that somehow functions as legal currency under British maritime law. The act of Billy Budd is used to create a legal fiction which demands swift, harsh military justice that lends exemplification into posterity. In the official report, a sense of cultural homogeneity is constructed in opposition to a binary other – the criminal is “no Englishman.” In the public report, the information is completely transformed to describe a stab wound delivered from the sheath of a knife by a foreign enemy. In The Caine Mutiny, Captain Queeg’s insanity is treated as a metaphor for the Calvinistic concept of “moral necessity” and as a self-contained, “a priori” state of affliction in order to neutralize discord within a military unit. His insanity itself functions as the “a priori” judgment of the situation on board the wartime Naval ship that warrants a mutiny. Consequently, the rhetoric encompassing this deference to Captain Queeg’s unqualified state of “a priori” insanity premises a legal fiction that will constitute the substance of a legal ruling. In A Few Good Men, the correction of the deficiencies of Private Santiago is treated as a “moral necessity” in warranting the “code red.” Its consequences are also treated as a “moral necessity” and the result of divine judgment. The “code red” that qualifies the perpetration of the hazing acts on Private Santiago becomes a legal fiction as an unwritten, unqualified

“code red” that is grounded upon intuitive knowledge. Testimony that the “code red” is applied as per a direct order by a commanding officer is recognized as legal currency and the justification for an acquittal of a murder charge. Thus, these texts identify culturally ingrained patterns of “essentialist” thinking as represented through allusions to Calvinistic concepts as a metaphor for the existence of a religious component within the institutional operations of military justice in the United States and the fictional aspects of legally qualified knowledge. These “legal fictions” obfuscate the need for due process by promoting the allusion of a cultural homogeneity and cohesiveness of ideas that facilitates the avoidance of discursive review. Legal fictions work to promote the notion that every member of society is in agreement with one ruling discourse. Thereby, in the use of “legal fictions,” a legitimate way is found through which to circumvent the pluralistic spirit of American democracy and nullify individual rights.

Furthermore, these three texts reveal a progression and evolution in the process of nullifying individual rights. In Billy Budd, Sailor, the swing of the fist is treated as a self-contained judgment premised upon allusions to revelation of divine will in Cotton Mather’s “outward tokens and manifestations.” The self-contained judgment applies only to the momentary act of one man on a particular occasion. In The Caine Mutiny, the insanity notion functions as a self-contained judgment of a long term, immutable state of depravity evidenced in a general state of social inadaptability and a series of unfavorable life circumstances – bringing to mind Jonathan Edward’s notion of the “chain of cause and effect.” In A Few Good Men, the individual rights are completely obfuscated and nullified as judgment for any and all actions is self-contained in the pre-requisite directives of “the code” and the “code red.” Thus, what should be individual judgment through due process under discursive review is self-contained and “a priori” as embedded within institutional policy, thereby alluding to Timothy Dwight’s concept of “supernatural rationalism.” Through all these texts, there seems to be a pattern of “essentialist” thinking in military justice that strives to forge this illusion of a cultural homogeneity while



progressively undermining democratic process and eliminating individual advocacy. The real world evidence would suggest that these texts provide a legitimate commentary on a viable cultural and political reality.

From a rhetorical perspective, these texts, in their critique of Essentialism in military justice, offer a consistent plea for a metacognition – an examination of personal conscience and the invocation of an imperative to censure the public conscience at large. In Herman Melville's Billy Budd, Sailor, Melville interfuses this sense of metacognition in the final pages. Particularly the scene of Captain Vere's final hours conjures this sense of reflection upon a life not well lived and fraught with regret. Captain Vere is apparently struck by a musket ball from an enemy ship (Melville 381). Mortally wounded, he lingers for days. As Melville puts it, "Not long before death, while lying under the influence of that magical drug which, soothing the physical frame, mysteriously operates on the subtler element in man" (382). This "magical drug" is perhaps this metaphysical phenomenon that occurs before death when people come to terms with the life they have led. Captain Vere is heard murmuring "Billy Budd, Billy Budd" (382). With this aside, the reader understands that injustice will not remain inconsequential in the long term. Accountability, in Melville's view, still rests in the metaphysical realm beyond the empirical operations of government. If not poetic justice, a larger vision is preserved through which Melville intends for this "examination of conscience" to perpetuate into posterity and continue to compel others to censure injustice when they recognize it. This "examination of conscience" is also instigated in the final two pages in the poem "Billy in The Darbies" depicting with narrative detail, the sailor's epic struggle.

In Herman Wouk's The Caine Mutiny, this same call for metacognition is evident. The attorney Barney Greenwald, is depicted in the jubilant moments after he has won his acquittal in an anti-climatic, self-deprecating mode. He acknowledges the counter-productiveness of his "essentialist" strategy and

the fact that his personal actions have undermined the spirit of democracy. Thus, he states, “Steve, the thing is, this dinner is phony. You’re guilty” (Wouk 482). He then recognizes his failure to consider the needs of the larger moral purpose. He refers to the Holocaust occurring in Europe at the time, the United States forces fighting Hitler, and his own recognition of his personal disloyalty to those forces. What is significant is that he acknowledges that he is not only a traitor to his duties as an American citizen. He acknowledges his abandonment of a personal obligation as a Jewish man to protect the interests of the Jewish people abroad who are being summarily executed by the Nazis for an “essentialist” reason. “Queeg deserved better at my hands. I owed him a favor, don’t’ you see? He stopped Herman Goering from washing his fat behind with my mother” (483). Therefore, again, with this seemingly hyperbolic allusion to events actually occurring, the reader is compelled into his or her own personal contemplation. The effect is profound especially for one who knows the history of the Holocaust and that this statement is not hyperbole but an allusion that very nearly addresses the literal.

In Aaron Sorkin’s A Few Good Men, again it is the attorney in the questionable legal process that invokes a censure of personal action. Sam Weinberg, an adjunct to the primary defense counsel, initially counsels his colleagues that their plan to use a circular argument framed around the use of the “code red” order will not work. He cites war crimes trials in the twentieth century, as I mentioned previously, in which the circular argument premised upon the authority of direct orders was not a valid excuse for murder. When realizing that his colleagues are going to employ a strategy that avoids discursive review of evidence anyway and make an “essentialist” argument, he voices his objection. “I believe the argument we are going to make today is morally reprehensible” (Sorkin 85 ). Specifically, he is referring to the manner in which Attorney Daniel Kaffee will argue that the two enlisted soldiers should be exonerated from culpability due to the fact that they were merely following orders premised upon intuitive knowledge in “the code” and “the code red,” thereby employing a circular argument based upon circular reasoning. The direct order for the use of the unwritten “code red” will be deemed the

legal justification for the subordinate soldiers. However, it will not be the moral justification. The two marines will be discharged from the Marine Corps and found guilty of “conduct unbecoming of A United States Marine.” In the aftermath of the trial, Lance Corporal Dawson and PFC Downey reflect upon the events of the day and, obviously bewildered by the judgment, finally recognize the true meaning of the moral judgment and why it is fair and correct. As Lance Corporal Dawson states, “we were supposed to protect those who are not able to protect themselves” and acknowledges that this is what they have failed to do, and in this aspect, have been failures as Marines (Sorkin 121). In setting the narrative plot to reach fruition in this manner, Sorkin is informing the reader that injustice does not remain uncensored from within. Ironically, As Melville and Wouk, Sorkin appears to affirm the supremacy of intuitive knowledge in establishing, censoring and reaffirming moral and legal purpose. The letter of the law in all three texts is proven to be inadequate to the task of justice and intuitive knowledge instructs the conscience and confirms the moral purpose in the minds of the characters, thereby illuminating the strong epistemological influence of religious beliefs. Since all the characters - Captain Vere, Barney Greenwald, Sam Weinberg, Lance Corporal Dawson and PFC Downey, ultimately arrive at the same moral understanding intuitively, this implies the existence of some homogenous moral/religious understanding in American society.

## Appendix

### Introduction

#### Calvinism: The Primary Tenets of The Belief System

Calvin's basic idea is that the human cause and effect dynamic is always subject to the greater contingency of God who is actively engaged in human affairs. Additionally, God has set in motion a pre-determined course of events. (Calvin in Franklin 11). From within the overarching premise of what Calvin termed Predestination, humanity is divided in a binary manner between those who had been blessed with divine grace and those condemned to possess the characteristics of depravity that are considered to be "essential," innate and unchangeable and as outward signs of eternal damnation. This doctrine of divine selection and Predestination is considered to be influential in the development of individualism within the context of democratic government due to the fact that it privileges individualism in its concept of binary selectivity based upon individual characteristics and behavioral markers more than other belief systems (Franklin 15). In his Institutes of the Christian Religion, Calvin stipulated that salvation or damnation constituted "an individual relationship to the plan of God" (15). And yet, when placed within the context of Predestination, no individual relationship could ever be the same in terms of fairness and equality. Predestination requires a state in which the individual is not equal in the eyes of God. From within this context, Calvinism became transposed into a social theory that promoted selective individualism. Some individuals were more important in the eyes of God and therefore more important to society. This selective individualism that used circular reasoning became a means of social control.

In The Institutes of the Christian Religion, Calvin establishes his theological foundation with the following main ideas:

- (1) God is supreme in all matters of human affairs.
  - (2) Faith and not good works is the only means for salvation and eternal life.
  - (3) Faith is a gift and only certain chosen people are born with this gift that is given by the Holy Spirit.
  - (4) From the beginning of time God chose some for salvation and others for eternal damnation – personal merit born of independent agency is inconsequential.
  - (5) The Bible is the primary guide for mankind – salvation requires following the Bible to the letter.
  - (6) Because of original sin which God anticipated, man's reasoning ability is faulty –therefore God controls all reasoning in man.
  - (7) There is no such thing as free will since the fall of Adam in the Garden of Eden.
  - (8) Evidence of a person's salvation or damnation is present in physical characteristics, speech, mannerisms, actions and other signs that can be perceived through the senses.
- (Calvin in Palim 15).

#### Social Significance of Calvinism

Nathaniel S. McFetridge in Calvinism in History, explores Calvinism as a political theory. In his investigation, he determined that based upon historical evidence, Calvinism is compatible with democracy and "its natural affinities are not with monarchy but with a republic" (McFetridge 34). He bases much of his assertion on the historical record of John Calvin's clashes with various monarchies throughout Europe and his insistence on curbed regal power and more representative government. He specifically notes the consistent clashes between followers of John Calvin and Charles I and James I of England and the efforts of Calvinist soldiers who fought forces of the Spanish Inquisition of Philip II in

France. In particular, aside from the extensive historical context of Calvinistic belief and doctrine, McFetridge asserts that Calvinism is a doctrine that is compatible with the common man and the man of little means in particular. He insists that the Calvinistic doctrine that proposes a “necessity of faith” as opposed to a theology of good works is more economically expedient for the poor man (18). No money is required to accumulate faith. Faith, under Calvinistic doctrine, is a gift. Since the majority of the population in the United States is, if not poor, then of humble, middle class means, this ideology would seem more expedient to task of controlling society through persuasion, McFetridge argues. Calvinism perhaps promotes acceptance of necessary states while offering hope through instruction that people can function within a faith based community without proven merit. People are permitted, in this system, to rely upon intuitive knowledge and this insinuated unity of thought that presumes faith present in others. If the concept of faith can maintain order within a society and convince people to accept certain aspects of living as part of “divine or moral necessity,” then why could this rhetoric not also be applied to military justice as a means of forging communal acquiescence within another context? Essentialism operates upon the assumption that superficial vagaries can qualify and manage unknowns within manageable parameters. It gains validity through the belief that signification and intuitive knowledge must be accepted as proof of the unknown. Signification as information must be accepted primarily upon faith and the intuitive power of the imagination will fill in the rest.

Still, is there any proof to be offered that the United States is a society in which Calvinistic rhetoric might be widely circulated within a climate of mutual acknowledgement, understanding and endorsement? First, there is no denying that the United States is a Capitalist country. Part of the task of arguing for Calvinism’s influence in American society is to discuss its relevance to Capitalism and economic and social systems within the United States. Calvinism is a doctrine that calls for self-denial while also permitting economic progress and the accumulation of material wealth as it was pre-destined to be appropriated for the select individuals who have been given the gift of divine sanction (Dakin 202).

Max Weber in his book The Protestant Ethic and The Spirit of Capitalism draws correlations between John Calvin's theology, social theory and the components of a market economy. Max Weber argues that due to the embracing of John Calvin's doctrine of Predestination, individuals were willing to accept assigned and/or inherited roles in life which in turn led to the birth of a more developed sense of individualism, the decline of feudalism and the beginnings of trade and professional guilds. It was those trade guilds that initially spawned the market economy in Europe. Perhaps it was this acceptance of assigned social roles and the belief in a personal divine plan that helped nurture "essentialist" thinking within society.

In his thesis, Max Weber postulates Calvinism as the ideological spawn of Capitalistic enterprises within the Western world. In Calvin's theology, monetary gain is a reward for work performed obviously by those gifted of the Holy Spirit and thus intrinsically inclined to work. Also, as stipulated in The Institutes of The Christian Religion, those deemed to be of the elect will be placed within favorable circumstances in their life situation that facilitate economic and spiritual progress. Calvin not only condoned financial gain as a reward for hard work. He also approved of borrowing money in order to finance productive activity (Dakin 206-07). While this information might not bear any specific relevance to my thesis, it does lend evidence to the notion that Calvinism can theoretically be functional within a capitalistic, democratic society such as the United States. Its principles advocate for assigned and fixed social and economic roles sustained primarily upon faith in a fixed reality. This dynamic of a fixed reality is antithetical to the aims of an ideal, democratic society; however, a market economy relies upon a fixed reality to some extent.

## Chapter 1 Billy Budd, Sailor

### Background Information: The Law in General and How It Works

Roberta Kvelson in The Law As A System of Signs discusses the nature of legal proceedings and the propositions of Stephen Toulmin in argument theory. Toulmin, she states, identifies all legal proceedings as a process of “discourse” which must converge at one point in order to construct a representative whole (Toulmin in Kvelson 59). The discourse derives cohesiveness from its adherence to a “ruling theme... non ambiguous system of cross reference” and unique “implications and presuppositions” (Toulmin in Kvelson 59). Questions that remain verbally omitted or unqualified will be resolved on a subliminal, ideological level in the minds of those in positions of judgment. What is not specifically stated will be presumed through an association of mental images. Personal ideologies will provide subconscious metaphors through which obscure questions will be resolved through mental images of ideas (59). Thus, there is an image association stored for each spoken word heard and each idea that is implied. These images make judgments for the mind at least on a subconscious level. In this subconscious decision making process, legal guidelines will be ignored. Kvelson points to Morris Cohen’s famous legal treatise of 1868 in which he said that “thought processes are a succession of images” and that people make decisions based upon the impressions these images make and the role they play in directing those processes and fashioning metaphors for experience (Cohen paraphrased in Kvelson 89). Mental images and personal mythologies directing the construction of these images govern perception and subsequently value judgments, he says. Charles Pierce, another legal theorist disagrees with this assessment of human epistemology and extends the definition to assert that the series of images that the mind constructs while thinking is actually a series of judgments (Pierce in Kvelson 89). Kvelson contends that the mental pictures are “not a copy of an actual, real thing, but an



iconic sign, or representation of judgment” (89). It is a process of association between symbols and ideas in which the mind creates its own individually sculpted interpretation of events.

Lawrence Friedman, in his legal writings, proposes that these imagistic mental judgments help to construct “legal fictions” that “form a bridge between ideology and fact” (Friedman in Kevelson 106). Captain Vere, by using the swing of the fist to invoke and sustain an essential state of circumstances, was creating this “bridge between ideology and fact.” The swing of the fist is transformed into an act of divine revelation that is subsumed into military law.

#### Does the Law Contain An Aesthetic Variable

The question, however, becomes, has the law and legal procedure been proven to contain an aesthetic variable (mutually understood representations of ideas in the form of language, acts or symbols) and how might this aesthetic variable function in relation to Calvinism and the principles of “outward tokens and manifestations” and Predestination. Captain Vere, in this case, performs the solitary role of lawyer, judge and jury and thus, his actions become reflective of a legal system. His role is primarily to mediate within debate and resolve conflict within the military unit in a volatile time. The law in general primarily performs this function of mediating within debate and resolving conflict. Pierre Schlag, in Laying Down the Law: Mysticism, Feitishism and The American Legal Mind, explicates on the ways in which conflict within a pluralistic democracy is neutralized and resolved. He would perhaps classify Captain Vere’s rhetorical justification for his actions as “value talk” (Schlag 43). When Captain Vere states that the job of military justice is not to consider moral or theological questions, he is establishing or at least re-affirming the standard or criteria for the value system. He is setting the standard for behaviors and confirming the parameters of empirical procedure within the social context of the community. This “value talk”, Schlag says, works “as a rhetorical medium to command at least minimal consensus and minimal reciprocal recognition among members of the community” (45). In turn, “Value talk” is “regulative” and “context transcendent” (45). In Captain Vere’s case, the “value talk” is

depicted in an allusion to the Calvinistic belief in a fixed universe. These are the neutralizing and “essentializing” values that Captain Vere is working to affirm as the operating criteria. Certainly Captain Vere’s words, when considering Billy Budd’s innocence, are intended to avoid consideration of the extenuating circumstances. His words serve as a regulatory power that is intended to reconcile this dissension among his officers regarding the culpability of Billy Budd. “Value talk”, according to Schlag, will invoke values that “are binding on us,” “limit and stop debate,” “are transcultural,” “enable systematization,” “are authoritarian,” “are silencing,” “are totalizing” and “enable reductionism” (47). In the case of “Billy Budd” and military justice, the value talk is more limiting, uncultural, and reflective of a particular theocratic and theological perspective. “Value talk” also works in conjunction with tropes, images, signs and forms that nurture and sustain aesthetic unity within a pluralistic society (48). “Value talk” falls under the category of established knowledge or “a priori” understandings of experience. “Value talk” supports binary definitions of experience that keep society functioning in a consistent manner. “Value talk” nurtures social unity primarily, he says, because its standards “constitute [s] the dominant forms of being of any individual or a group” (51). In the final outcome, this “value talk” serves to seal Billy Budd’s fate and solidify the power structure through the submergence of the unanswered and the unanswerable aesthetic questions. The presumption of aesthetic unity is forged around this “value talk” as an aesthetic representation displaying the invincibility of the law brought to fruition in the execution of Billy Budd. “Value talk” substitutes for the earlier judicial assertions that categorized all acts of transgression and crime as acts against God and punishable as such. “Value talk” is the affirmative unifier that substitutes for the unifying theocratic judgments of previous times.

What is the theoretical precedent that justifies the connection between the applications of the law and theological ideas and how are these aspects made evident in Billy Budd, Sailor?

Theodore M. Benditt in Law as Rule and Principle: Problems of Legal Philosophy, reviews the theories of Thomas Aquinas who postulated a theological version of natural law. His conception of natural law stipulates that God gives people the ability to reason and that this reasoning power works in conjunction with the will of God (Benditt 91). He also recognizes the presence of human intuition that enables people to distinguish between right and wrong and understand the will of God. All modern legal theories stem from this basic idea, according to Benditt. The roots of natural law, he says, incorporate this sense of “moral obligation” (Benditt 92). Law functions under the umbrella of this looming abstraction of metaphysical proportions. “Everything that really is law is in accordance with morality” (92) and this intuitive sense.” Yet how can this primary element of jurisprudence become reconciled to the social conditions within a pluralistic society. “Intuitive apprehension is no guarantee of truth” (93) and yet as seen in Herman Melville’s Billy Budd, Sailor, it is still has an operable position as a unifying variable within a pluralistic legal venue. Melville, in fact, refers to Captain Vere as being guided through the judicial decision making process by his “intuitional surmise”(Melville 343). While the mention of Captain Vere’s “intuitional surmise” may not be proof of the existence of a Calvinistic framework, it does tend to coincide with Benditt’s theories connecting the law with morality and theological variables through this sense of “intuitive apprehension” (Benditt 92). While “intuitive apprehension” is not written into any military law, as seen in all three texts, it is still a viable recourse and a unifying agent for maintaining collective consensus or at least resigned acquiescence. Certainly asserting the will of God through the use of certain words, appeals to this sense of legal acquiescence and to the intuitive sense of metaphysical and divine knowledge. As revealed through the plight of Billy Budd, the law when it is applied through the justification of the “intuitive apprehension,” eliminates individual advocacy through

due process using linear cause and effect reasoning. Due process requires adjudicators to follow rules. The practice of “intuitive apprehension” or in Captain Vere’s case an “intuitionist surmise” is purely individual and arbitrary.

#### Legal Process As A Social Activity

No doubt, Billy Budd’s social status contributed to the effectiveness of Captain Vere’s legal strategy. Captain Vere’s attempt to “essentialize” the situation and the subsequent judicial process perhaps is aided by the subconscious feelings of ambiguity held by the crew. Perhaps due to their own feelings of apprehension and an innate fear of the unknown, Captain Vere’s summary court was able to place trust in his intuition by accepting the “essential” nature of his words and the “essential” nature of the process itself. The process was a social activity as it progressed based upon a mutual recognition of those implied ideas and a mutual willingness to defer to “essentialist” thinking as a way of avoiding serious scrutiny of the unknown. In effect, they relied upon their intuition which I contend is always influenced by the invocation of familiar and comfortable ideas. Furthermore, as is revealed in the following passage, Calvinism, as an “essentialist” doctrine, correlates with the nature of law itself that requires a certain measure of uniformity and congruence premised upon implied understandings. The law also contains an inherently fixed quality, not only in the form and content, but in the process of legal discourse as it unfolds.

Benditt discusses the writings of Lon L. Fuller in The Morality of Law who identified legal proceedings as primarily a social activity that is constantly mutating and evolving (Benditt 96). Hence, as a social activity, the human notion of “intuitive sense” is very much present. Fuller set forth specific guidelines for a valid legal system that included the necessity of understandable rules that are publicized and enforced (96). Valid laws, he asserts, contain an intrinsic element of congruence. Benditt states that these legal guidelines that Fuller expostulates on are in fact an extension of natural law (96). I believe that this essentialism of congruence in the law reverts back to the notion of perfection and divine law.

Human actions within a social dynamic will never be absolutely congruent and yet judgments are obliged to somehow fit into this notion of congruence. This is perhaps where the creation of aesthetic representation becomes necessary. Something larger than the empirical evidence and procedure of human creation must provide the “intuitive apprehension” of natural law. Aesthetic representation feigns congruence in belief and creates congruence in the final decision.

Samuel Stoljar in Moral and Legal Reasoning, avers that the law strives to achieve “universalisability” and an accumulation of “moral practices” that solidify congruence in the law (Stoljar 133). Legal process, he states, is not merely relevant to the immediate moment but is implemented with the intent to project a legal decision into posterity (133). Laws are recorded that clarify moral practices. “In recording decisions, law becomes a sort of public repository of moral judgments” (133). This act of compiling judgment is, I feel, designed to fashion congruence and achieve consensus where it does not necessarily exist. If legal judgments are carried forth into posterity, they ascend to the status of mythic quality. The legal judgments become examples and perhaps progress to the level of aesthetic representations that influence the subconscious mind, thereby soliciting a moral obligation that reverts back to this abstraction of intuitive sense and natural law.

#### Violence As A Social Activity Deemed to Establish Validity in The Law

Captain Vere, when questioned about the necessity of the death sentence, declares “They would think that we flinch, that we are incapable of practicing a lawful rigor.” He is actually stating that the violent death of Billy Budd is necessary to affirm and sustain the validity of existing military laws. Walter Benjamin, in his essay “Critique of Violence,” says that judicial punishment has two main functions: to establish a new law or to preserve and reaffirm an old one (Benjamin 286). Specifically, he states that judicial punishment in the form of violence is “characteristic of militarism” (284) “and as a means to the ends of a state” (284). Violence as judicial procedure, he asserts, does not derive its purpose from the necessity of punishment. It is through the necessity of ideas that real power is gained

and preserved. Thus, violence as judicial procedure is used more to enforce ideas. Individual consequences are a secondary concern. Melville follows this model in Billy Budd, Sailor by portraying Captain Vere as lobbying for this necessity of ideas that must be treated in relation to real world consequences as part of a revelation that will uphold the power structures. The swing of the fist, on its face is manipulated as this necessity of ideas as Captain Vere labels it a sign from God – “It is the divine judgment on Ananias, Look!” - that must have tangible empirical consequences – “Struck dead by an angel of God and yet the angel must hang” ( Melville 351-52). Walter Benjamin states that acts of violence give the necessity of ideas in law their validity. As in Billy Budd, Sailor, the acts of violence also serve to make the necessity of ideas carry meaning into posterity. “The first function of violence is called the law-making function, this second will be called the law preserving function” (284). Thus, violence as judicial punishment, as with other acts of executive judgment, is designed to be exemplary as well as punitive. When used in conjunction with violence, as in the case of Billy Budd, it can establish, confirm and reaffirm structures of power. If judicial procedure is used as tool for establishing law, then it must draw upon some “intuitive sense” or natural law or an overarching, “a priori,” metaphysical abstraction. There needs to be something larger in order to establish a new law. People need to become compelled to this sense of divine obligation or at least display acquiescence in the face of some inevitability. That is where aesthetic representation becomes applied to legal procedure. Benjamin conceptualizes legal process as designed to invoke sublime notions of futility and fatalism. The law needs to create a polarization between order and a presumed disruption in that order that will be reconciled in the metaphysical realm. “A deterrent in the exact sense would require a certainty that contradicts the nature of a threat and is not attained by any law, since there is always hope of eluding its arm” (285). Certainly the inescapability of Billy Budd’s fate is a key variable and instrumental in solidifying unity around avoidance of that fate that is exemplified to posterity. Billy Budd’s swift execution around sublime, obscure circumstances provides that certainty that contradicts the nature of

the threat - in this case, potential mutiny and subversion of any sort. Furthermore, his public execution in the wake of his widely accepted innocence speaks to some mystery beyond mere man-made law on paper. It is a sublime event.

Benjamin also characterizes the power of legal procedure as containing a religious component with its “mythical manifestations” (Benjamin 295). “Lawmaking is power making and, to that extent, an immediate manifestation of violence. Justice is the principle of all divine end making, power the principle of all mythical lawmaking” (295). These statements suggest that law seeks perfection. Ideal power is the essence of perfection, congruence and order. Empirical procedure cannot facilitate such lofty notions of congruence. Captain Vere attempts to create this scenario in his legal process even if only in his offhand comments in the company of the ship’s surgeon: “Struck dead by the angel of God and yet the angel must hang (Melville 352)! I believe that Benjamin’s “mythical manifestations” are those aesthetic representations within legal procedure that cannot be empirically clarified and yet conjure up the essence of congruence under the domain of an overarching “essentialism” of governing perfection.

#### Common Sense Law

Marcel Danesi, in “The Law As Metaphorical Gestalt,” refers to the theories of Giambattista Vico, a Neapolitan philosopher, who said that law is based upon human common sense. This notion of “common sense” translates into the “ability to register commonly-shared patterns of perception and feeling” (Danesi 15). The idea is derived, he states, from the original “context of communal sense-making” or the construction of meaning between members of a specific group in which all arrive at a consensus regarding sensory perception. Underlying this communal form of epistemology, Vico said, is this internal mental process of constructing metaphors and mental representations for experiences. He called this thinking process “poetic logic” in which the mind conducts neurobiological activity that uses the imagination to create rationality. Vico labeled the process a “fantasia” (Vico qtd. in Danesi 15) in

which logic and rationality are constructed around “transformational relations” which develop “metaphor, affect, sense, imagery, symbol formation” and “narrative discourse” (15). It is the human mental activity of poetic expression. All legal proceedings function from, around and within this dynamic. “Legal systems”, according to Vico, “started out as poetic expressions of what early humans felt to be appropriate”(17). These poetic expressions evolved into loftier abstractions and the notion “that gods or divine beings” directed human social interaction. Vico also recognized the strong connection between legal systems and religions. Thus, from the earliest times, law itself has been the substance of aesthetic representation. The human mind, according to Vico, is hardwired to receive messages of rhetorical significance in symbolism, metaphor and other epistemologies of implied abstractions.

Furthermore, people, Danesi says, make conceptual distinctions, not in isolation but as a group (18). “The communal sense of the tribe constrains the representational process” and compels members of a group to tailor decisions according to “conceptual distinctions...deemed to be significant by the social group” (18). Thus, the process of law itself appears to be functioning on the level of group abstraction, collective consensus and aesthetic representation based upon shared value systems. In turn, the law unfortunately, tends to be primarily faith based.

## Chapter 2 The Caine Mutiny

### Captain Queeg’s Position and Point-Counterpoint

The narrator attempts to emphasize the manner in which the course of events from the perspective of Captain Queeg’s testimony actually presents as a rational interpretation. It is, in fact, primarily Steven Maryk’s interpretation of events as prompted through the coaxing of Lieutenant Thomas Keefer that will constitute the crux of the insanity assertion within this legal venue. The assessment of testimony of the mock “defendant” is noted as follows:



The reply of Queeg was a coherent, rapid sketch, in formal language, of the mutiny. Maryk admitted to himself that the facts were presented correctly; the external facts. Slight shadings of what had been said and done, and, of course, a complete omission of any details of how the captain had looked and behaved, sufficed to turn the whole picture inside out. (Wouk 415)

This passage implies that the distinction between straight fact and interpretive information is subjective. Either Captain Queeg's intention was "to turn the whole picture inside out" or the truth was warped from the start.

Captain Queeg's testimony offers the proposal that he is a victim of unfavorable circumstances – the misfortune of having three men under his command who dislike him and actively work against him. Whether this was true or not, the suggestion is put forth that at least presents a reasonable doubt regarding his insanity and the objectivity of interpretation in this case. This test of bearing is revealed in Captain Queeg's testimony:

It's the gravest occurrence of my career, and the only questionable one that I'm aware of. It was an unfortunate freak accident. If the OOD had been anyone but Keith and the helmsman anyone but Stillwell, it would not have happened. Keefer or Harding or Paynter would have repudiated Maryk's orders and probably snapped him out of it in a hurry. (416)

This passage not only reveals a fatal naiveté on the part of Captain Queeg regarding the dynamic on board his ship and his misplaced trust in Thomas Keefer, but also elucidates the highly ambiguous nature of the insanity notion. The end result, Queeg pleads, occurred under very arbitrary circumstances. There are many plausible participants in the decision making process who might have affected the outcome. Timing and expediency and not "a priori" states of insanity make the interpretation of events as relative to whomever was on the deck at that particular moment when the typhoon was reaching its crescendo. Captain Queeg's testimony appears to counteract, at least in some

small way, the case they are building which forwards the notion that patterns of behavior, along with an unfortunate background and years of psychological affliction have coalesced in order to forge this inevitable display of insane behaviors that would warrant Captain Queeg's relief from command.

Then there is the question of the fitness reports that defense attorney Greenwald introduces. Greenwald raises the point that Captain Queeg gave Officer Steven Maryk many good evaluations before the mutinous act. This fact, it is noted, appears contradictory to Captain Queeg's current assertions that Officer Maryk suffered a lapse in judgment in the execution of his office. To that aim, Queeg answers to the relay dialogue set in motion by Greenwald:

Queeg: I can say definitely yes, I was still classifying him as outstanding that early in the game.

Greenwald: Isn't that inconsistent with your statement that from the first he opposed your

wishes regarding *the Caine*? Queeg: No there's no inconsistency. It's all how you interpret it. I

don't use fitness reports to revenge myself on officers who disagree with me, and Maryk did not do his job. (Wouk 419)

This passage accentuates the arbitrary nature of classification in general and how accuracy changes with time and circumstances. A fitness report is a classification of sorts – an evaluation of capability. Captain Queeg's presumed insanity is another evaluation designed to discredit him as an officer and negate his capability to command. When Captain Queeg states "there's no inconsistency, It's all how you interpret it," he is indirectly addressing the real inconsistencies inherent in empirical classifications that are "essentialist" in nature. Even though patterns of behavior are present and evidence presents itself that might lead to a particular conclusion, in the final analysis, justice should not rest on "how you interpret it" (419). The nature of knowledge is highly subjective and thus real knowledge lies beyond "essentialist" classification and cursory information qualified through supposition and innuendo alone.

### The Question of Captain Queeg's Insanity – A Political Notion

The prime author of the supposition and innuendo that drives the legal process within this military venue becomes a highly ironic figure. Thomas Keefer, when required to testify, completely reverses his position from the one he held earlier in which he worked ardently to provoke an unqualified assumption regarding Captain Queeg. When it is politically dangerous for him to admit to his personal truth, he offers a perspective that promotes the situational positioning of truth and reveals how the manner in which the truth is presented can be warped to serve the purposes of expedient manipulation:

Speaking from ignorance sir, my understanding is that mental disability is a relative thing.

Captain Queeg was a strict disciplinarian and extremely meticulous in hunting down even the smallest matters, and quite insistent in having his own way in all things. He was not the easiest person in the world to reason with. It wasn't my place to question his judgments, but there were several occasions when I thought he bore down too hard and spent excessive time on small matters. Those are the things that are recorded in the medical log. But to jump from them to the conclusion that the captain was a maniac.... (Wouk 423)

### Chapter 3 – A Few Good Men

#### Rationalism in a Basic Sense and Its Connection to Institutional Operations – per Max Weber

Max Weber, in his theories on Capitalism and democratic bureaucracies, identified certain key elements or aspects of institutional functioning that employ strategies of rational thinking. From within the context of institutions, rationalism can be defined in the following ways, according to Weber:

Rationalism involves a certain measure of predictability – “organizations have rules and regulations and actors are subject to structures and authority. This, along with established

procedures and ends, mean that the results of social action can often be predicted – probabilities are attached to outcomes” (Weber paraphrased in Gingrich 1 ).

Rationalism involves a certain measure of calculability – “Results can be calculated or estimated by adopting assumptions and considering methods by which results will be achieved” (Weber paraphrased in Gringrich 1).

Rationalism involves a control over uncertainties – “Rules and methods are adopted that deal with many possible contingencies. Rules are set up not so much to deal with specific people or personalities but attempt to be generic, dealing with a variety of possibilities. These allow outcomes to be constrained within certain limits, thereby reducing uncertainties about outcomes” (“ “ “ ).

The “code red” satisfies all these stipulated elements of institutional rationalism according to Weber’s categorical analysis. The “code red” is established with the purpose of calculating disciplinary outcomes to a certain degree. The “code red” lends a certain measure of predictability to disciplinary and training issues as it obfuscates any discursive process that might compromise the regularity of predictable behaviors. Assessments of behaviors and punishments are “essential” in nature as the “code red”, an unwritten code of mutual understanding, can be applied at a moment’s notice and without requiring the most cursory review of evidence that might suggest extenuations and contingencies. Furthermore, compliance is generally expected as any breach is considered an egregious act of personal and collective disloyalty and a moral affront to God and the institution – ie “he had no code”(Sorkin 50). In turn, one might consider the manner in which “the code red” would be expedient in dealing with conflict resolution through rational means. Max Weber differentiates the concept of rationality into the following:

**Practical rationality** – “the individual considers ends and on some systematic basis decides what is the best means or course of action to pursue in order to achieve those ends” (Weber paraphrased in Gingrich 3 ).

**Theoretical rationality** – “abstract concepts form an essential part of logical reasoning or theoretical models. These attempt to describe, explain, or understand the world in terms of models that are constructed from observation and meaning” (Weber paraphrased in Gingrich 3).

(Observation: Based upon his actions, Private Santiago “had no code” – observation, the “code red” has metaphysical meaning that is “essential” as “God was watching” (Sorkin 50) In turn, the code was an abstract theoretical model that derived meaning in the real world through a failure to follow its prescriptions.)

**Substantive rationality** – “Individuals might consider a range of possible values or actions and attempt to make them consistent” (“ “ ”). “The code” leant a certain measure of congruence and consistency to human behaviors. Either you followed the code and obeyed God’s law or you didn’t. The “code red” is the divinely willed process of moral correction. Either one lives under the code or one does not.

**Formal rationality** – “Rationality that characterizes organizations, especially bureaucratic ones” to include universally applied rules and regulations that constitute Western conceptions of government. (“ “ “”).

#### Timothy Dwight’s Modification of the Doctrine of Predestination

Timothy Dwight contended in his doctrine that Predestination was not a direct process but one in which God influenced human events by creating environmental conditions and situations (Berk 83). His is a limited Predestination in which moral correction and atonement are possible. However, he

expands upon John Calvin's notion that the damned will be placed within the empirical conditions designed to nurture depravity and vice versa – the saved will in turn be placed within favorable conditions designed to nurture their favored status. Dwight stipulates that God would influence human actions through processes of nurturing by his agents who would in turn condition subjects, instill habits and cultivate behaviors. "Influence, motives and habits" all worked in conjunction as a method designed to establish and/or maintain the real world conditions that would facilitate divine will (83).

*Lieutenant Colonel Jessup: "Capering half in smoke and half in fire." "Moby Dick. Jon, when I quote Melville, you don't have to nod your head up and down like you know what I am talking about" (Sorkin 21).*

*In this passage, Colonel Jessup is quoting Melville and thus insinuating his intention to advert to a specific act of trickery or deception and if applying the ultimate definition of the word "caper" – an illegal act. The words "half in smoke, half in fire" evince an attitude that is intrinsic to a particular management style within this military unit. The smoke signifies the unwritten policies based upon intuitive knowledge and mutual understandings that function as military directive – the Essentialist "code" and the punitive applications of the "code red." The fire he speaks of refers to the consequential acts – the real world examples that aid in premising and perpetuating the meaning behind the institutional policies that employ intuitive knowledge in "Essential" ways. This rhetorical style is made evident in Colonel Jessup's method and the manner in which he treats even the most inconsequential indication of military inefficiency as warranting harsh action in the form of "moral correction" in the implementation of the "code red." This method is supported and qualified through "Essentialist" classification, invocation of divine will and intuitive knowledge. In Moby Dick, the phrase "capering half in smoke, half in fire," is used to describe the machinations of a character who is standing watch on the*

*deck of a ship and entertaining thoughts of imaginary demons and ghosts who are taunting and threatening him.*

### Dwight and Public Happiness

In his treatise, "The True Means of Establishing Public Happiness," Dwight speaks of a divine government as the essence of all "social order and collective virtue in a community" (Dwight paraphrased in Clark 151). Dwight also uses the term "public happiness" to refer to the goals of his theological government (Dwight in Clark 151). The paramount method for securing public happiness is found in the process of censorship of individual behaviors: "The primary mean[s] of originating and establishing happiness in free communities is... the formation of a good personal character in their citizens" (Dwight qtd. in Clark 151).

He then asserts that evidence of a good character is made manifest in displays of a submission to the public will. Anything antithetical to the public will in word or deed is automatically considered a state of moral degeneracy that must be isolated and corrected (Dwight in Clark 151). He then stipulates that the individual moral character of a person and the task of moral correction are the government's business. The role of government is "the formation and establishment of knowledge and virtue in the citizens" (152). The doctrine constitutes an absolute decree.

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## Curriculum Vita

Nadia Morales was born in Washington, D.C and raised in Alexandria, Virginia. She graduated from Saint Mary's Academy in Alexandria in 1980. She attended Northern Virginia Community College, El Paso Community College and the University of Texas at El Paso where she received her Bachelor of Arts degree in 2006. During the course of her graduate studies she has presented two seminar papers at the University English department's annual Graduate Literature Conference. In October of 2009, she presented a paper entitled "Calvinism and Aesthetic Representation as Wartime Judicial Process" on a panel with Dr. Robert Gunn at the Rocky Mountain Modern Language Association Annual Convention in Snowbird, Utah. Nadia has worked for the Socorro Independent School District as a substitute teacher. Nadia also served in the United States Army for three years as a helicopter mechanic and received an honorable discharge in 1986. Nadia has been married to her husband Armando for twenty-four years and has two daughters, aged 22 and 14. Her eldest daughter Virginia is also a recent University of Texas graduate and is currently working as the Band director at Bill Sybert elementary school in El Paso. Over the years, Nadia has done volunteer work with Americas High School and within her local community. She served as the Treasurer for the Americas High School Band Booster Organization for one year and has taught Catechism at her local church. Nadia hopes to teach and pursue novel writing in the near future.